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THE HIGHWAY TRUST FUND

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES,
TRANSPORTATION, AND INFRASTRUCTURE

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

THE STATUS OF THE HIGHWAY TRUST FUND

AND

S 2013

A BILL TO REQUIRE THAT THE SURPLUS IN THE HIGHWAY TRUST FUND BE EXPENDED FOR THE FEDERAL-AID HIGHWAY SYSTEM

MAY 9, 1990

Printed for the use of the
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THE HIGHWAY TRUST FUND

WEDNESDAY, MAY 9, 1990

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES,
TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:00 a.m. in room 406, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan [chairman of the subcommittee] presiding.

Present: Senators Moynihan, Burdick, Lautenberg, Warner, Reid, Chafee, Symms, Graham, and Durenberger.

Senator MOYNIHAN. A very good morning to our guests. This is a regular meeting of the Subcommittee on Water Resources, Transportation, and Infrastructure.

We are here at the particular request of our colleague, Senator Bryan, who asked that a hearing be held on a subject which needed a hearing, indeed, which is to say the condition of the Highway Trust Funds, the manner in which they are accumulating, and the intentions of the Administration and the desires of the States and of the Congress.

We are most distinguished in this situation as we have with us our revered Chairman, who not only has joined us, but has come with a statement he would like to make.

Sir, would you proceed?

OPENING STATEMENT OF HON. QUENTIN N. BURDICK, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator BURDICK. Thank you, Mr. Chairman.

Seventeen years ago, I joined what was then the Senate Public Works Committee. At that time, my dear friends Jennings Randolph and Howard Baker served as Chairman and ranking member.

I sought the assignment because of the importance of highway programs and the fact that it was and still is a major focus of this committee. The authorization of the Federal Aid Highway Program will be one of our top priorities for the coming year.

The Highway Trust Fund, which is the accounting device for the highway program, was established in 1956 after a prolonged debate on how to best finance and expand the program that would constitute a new national interstate network and other road systems.

It took Congress and the Eisenhower Administration more than a year to come to an agreement. General revenues, bonds and tolls were all rejected as funding sources in favor of a different approach—dedication of highway user excise taxes to the Federal program and the creation of a brand new highway trust fund as a financing mechanism.

Recently Federal Highway Administrator Tom Larson passed along an article from a 1956 issue of Colliers. The author is political historian Teddy White, and he is writing about the battle at that time—still unresolved—to secure funding for a modern highway system.

White observes that everyone loves roads, but no one wants to pay for them. An exception was a freshman Senator from Connecticut, Prescott Bush, President Bush's father, who took the leading support in the Administration's broad-scale $20 billion bond financing proposal for the construction of the interstates.

Senator Bush's argument was as follows:

> The importance of the interstate highway system is so great that it has to be provided for now. Nobody that has been in business will say that it is not good business to borrow money to build productive assets. That is the only purpose of borrowing money in the field of commerce and industry. It should be likewise in Government.

It is too early to know the details of President Bush's Highway Reauthorization legislation, but I was encouraged to hear his OMB director, Mr. Darman, say recently that the pattern of Federal expenditures must shift away from current consumption toward an investment in the future and that the growth of transfer payments must not be allowed to drive out necessary investments in infrastructure, research and development.

I could not agree more with these views of the necessity for investment in our stock of public capital. We must reverse course at the Federal level for the period of this investment, and commit anew to strengthening our Nation's transportation infrastructure.

I commend Senator Moynihan for contributing to that process by holding today's hearing. It is appropriate that we begin by examining various options for the Highway Trust Fund.

I thank you, Mr. Chairman.

Senator MOYNIHAN. I thank you, sir.

May I say that I spoke with Teddy White about that article when he wrote it for Colliers in 1956. He was in New York, and New York State had just built the first segment of the interstate highway, a throughway which we had designed and had just started to pay for, and continued to pay for, and will go on paying for, having omitted to include it in the legislation that was active the next year.

Senator Lautenberg, good morning, sir, and welcome to this hearing.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you, Mr. Chairman, and as usual, we recognize your foresight and perspective on getting on with things that need to get done.

Like you, I am deeply concerned about the state of our infrastructure, and I am concerned also about the low priority that infrastructure has on our Federal agenda. Few issues are as important or as fundamental to our economic well-being as an adequate, balanced transportation system.

Without the ability to move people and goods, our economy is going to grind to a standstill. We cannot permit this to happen. A major frustration is not having room within the Federal budget to do more.

The Administration highlights the fact that they have requested increases for transportation overall, but downplays the fact that many of the increases come at the expense of Amtrak, mass transit, and highways. Among the public, there is a growing recognition of the importance of a top-notch transportation system. We need a national debate on the subject of the level of the priority that it should have within the Federal budget.

The result of this debate may not be agreeable to everyone, but we at least need to make sure we can agree on the terms of the debate. A key topic of discussion is the balance in the transportation trust funds. People look at the massive needs out there, and they see not just the clear and present danger—the collapsing bridges, or the potholes, although I read in New Jersey that we are gaining on the pothole situation, though there are still enough to go around—but also the inability to keep up with development.

They see congestion threatening to choke off economic growth in states like yours, Mr. Chairman, and like New Jersey. A recent survey reported that 31 percent of the companies are having trouble hiring workers because of the transportation problem. People look at the problems, and they see the trust fund as the answer. They want to know why there is a balance. There is a $10 billion surplus, and they want to know why we are not spending the money to bring our national transportation system up to par.

Hopefully, this hearing can at least clear up some of the misconceptions. I have looked closely at this question. There is no surplus—at least not in the traditional sense. There is a cash balance, but that exists largely because of the low spending rates of highway construction and overall, we are spending more than we are taking in each year in tax revenues.

In fact, over the last decade, about $7 billion has been spent out of the trust fund above and beyond that which was collected in the same period. The balance is not an excess, it is not a rainy day account, it is money to cover bills that are about to come due. I would like to use our money more effectively. We have to look at how we can do that.

This morning we are going to hear from colleague Senators who are going to be making some proposals that we will discuss today. But we also have to look, Mr. Chairman, at the revenues we are not receiving. That is vital. Unless we are going to be making deposits into the trust fund, we can't make withdrawals. Right now we are losing about a half billion dollars—$500 million—in revenues each year because of the tax exemption for gasohol.

The Senate recently took what I believe was an unwise step by mandating a greater use of gasohol while still providing this subsidy. According to Administration estimates, the new mandate costs us over a billion dollars each and every year. That is a lot of bridges that won't be repaired, a lot of roads that won't be resurfaced, a lot of transit systems that won't be built or upgraded.

But I guess it is also a way to make sure that there won't be a balance in the trust fund in the future. I hope we will take a closer and continuing look at the wisdom of diverting that money away from the highway trust fund, away from the one place it ought to be used to help the pressing infrastructure needs we are all so concerned about.

Just by way of an aside, this morning's New York Times had an article that said gasohol may cut monoxide, but raise smog. The worst part of that is that it costs us money to get that smog, and we are getting it free now.

We thank you very much, Mr. Chairman.

Senator **MOYNIHAN**. It is just like the Senator from New Jersey to be right on top of the news, especially the New York Times.

I read that also, and I would say to the Chairman that we have to have a hearing on this. We have attached provisions to the Clean Air Bill which mandate a whole range of alternative fuels, including gasohol. If what we are mandating is more acid rain, it does not make a great deal of sense—they at least ought to be in separate bills, don't you think?

Mr. Chairman, we can ask EPA to come before us and look at this. The specifics are that what you gain in carbon monoxide, you pick up in other chemicals, and the ones that specifically are associated with acid rain and smog—smog is a chemical reaction in the atmosphere.

It is not too late to do this, would you not agree?

Senator **LAUTENBERG**. Mr. Chairman, I agree.

Senator **MOYNIHAN**. Would you like to put that article in the record?

Senator **LAUTENBERG**. I would be glad to.

[The article referred to follows:]

[From the New York Times, May 9, 1990]

"GASOHOL" MAY CUT MONOXIDE BUT RAISE SMOG, STUDY ASSERTS

(By Matthew L. Wald)

A study prepared for the oil industry and released yesterday has cast doubt on a much-discussed method of fighting air pollution, concluding that requiring grain alcohol in gasoline will produce a minor reduction in carbon monoxide, but a large increase in smog. An amendment to the Clean Air Act, approved by the Senate would mandate such a change.

The study was prepared by a California consulting firm that has done extensive work for the governments of eight Northeastern states and California. It concludes that "gasohol," or gasoline with 10 percent grain alcohol, would cut carbon monoxide by 25 percent, but that nitrogen oxides, which cause smog and acid rain, would rise by 8 to 15 percent, and hydrocarbons would rise by 50 percent. That works out to 6 percent more smog.

The grain-alcohol lobby immediately attacked the study. Government reaction to ethanol has been mixed. The Environmental Protection Agency says that other provisions of the Senate plan will help reduce pollution, but the two regional agencies that have led policymaking in cleaning up gasoline, the California Air Resources Board and the Northeast States for Coordinated Air Use Management, both say they are not sure if alcohol will help.

All agree that alcohol would reduce carbon monoxide, which is primarily of concern as a direct poison. In addition, like hydrocarbons and nitrogen oxides, carbon monoxide reacts in sunlight to form smog, or, more formally, ground-level ozone.

A spokesman for the Renewable Fuels Association, a group representing alcohol producers, disputed the study because, he said, it used as a basis for tests a specially equipped car and a pure form of gasoline that is not commercially available. The spokesman. Eric Vaughn, said that use of that fuel and car could skew the results.

Technical analysts are equivocal when it comes to the benefits of ethanol. "The jury is still out," said Jerry Martin, a spokesman for the California board. "We do know that there seems to be a reduction in carbon monoxide, but there seems to be some slight increase in nitrogen oxide. We have not determined as of yet which is the greater. We still are not certain whether there's a benefit or not."

In Washington, ethanol, which is made from corn, has strong backing from farm-state senators, including Bob Dole of Kansas, the minority leader.

At the E.P.A., Richard D. Wilson, director of the Office of Mobile Sources, said the Senate proposal would improve air quality because it also calls for a 15 percent reduction in ozone, with no increase in nitrogen oxides. One way it would achieve this, Mr. Wilson said, is by cutting another component of gasoline called aromatic, heavy molecules that sometimes fail to burn completely. Another official at the California board, Thomas A. Cackette, said that "if alcohol is used the way it is used today, the only conclusion you have is that it hurts air quality." But he agreed with Mr. Wilson that the Senate plan would require other changes that would help air quality.

PAYING MORE FOR DIRTIER AIR

One of the two authors of the study, Thomas C. Austin, former head of the California board, said in an interview that under the Senate plan "motorists will end up paying more for dirtier air."

Gasoline with alcohol additives is already in common use in some parts of the country, as gasohol or "oxygenated" fuel. The ethanol portion of the fuel is about twice as expensive as the same amount of gasoline and delivers one-third less mileage per gallon. To stimulate sales, ethanol has been exempted from taxes, at a cost to the Federal Treasury since 1980 of $3.1 billion, and to state treasuries of $1.6 billion over the same period.

Three-quarters of the ethanol is produced by a single company, the Archer-Daniels-Midland Company of Decatur, Ill., an agricultural processor. The company referred all inquiries to the Renewable Fuels Association.

The American Petroleum Institute, the oil industry's main trade association, said it did not fear competition from such fuels, because the corn from which the alcohol is made requires more oil and natural gas to produce than it displaces. For example, raising corn requires natural gas for the production of nitrogen fertilizer and diesel oil to run tractors.

However, requiring oxygenated fuels would raise costs and could depress sales, according to the oil industry, all for a net environmental loss. Refiners also fear that they would have to invest new capital to supply oxygenated fuels.

Ethanol consumption last year, 840 million gallons, was a tiny fraction of gasoline consumption, which was more than 100 billion gallons.

In early April the Senate approved an amendment by Thomas Dashle, a South Dakota Democrat, that would require the use of fuel with a high oxygen content in nine cities with air problems. Those cities account for one-fourth of the gasoline market. Other cities could choose the same fuel in preference to other steps to control air pollution. The first nine are Los Angeles, Houston, New York, San Diego, Chicago, Milwaukee, Philadelphia, Baltimore and the Hartford-New Haven area.

Refiners say the amendment, combined with tax exemptions, heavily favors ethanol. Mr. Vaughn said the requirement might also be met by selling ethanol to refineries, which would turn it into an additive, ETBE, or with other oxygenated fuels, including MTBE and methanol.

When the House takes up the Clean Air Act, it will consider a parallel amendment offered by Representative Bill Richardson, Democrat of New Mexico, that covers 27 cities.

Car engines produce carbon monoxide, which has one carbon atom and one oxygen atom, when they burn gasoline without enough oxygen present to make carbon dioxide, a molecule with two oxygen atoms. Putting alcohol in gasoline helps prevent the creation of carbon monoxide because the alcohol molecule incorporates an oxygen atom, along with two carbon atoms and six hydrogen atoms.

Engineers say that if the fuel is 10 percent grain alcohol, the engine can burn it thoroughly with 4.1 percent less air than is required for a straight gasoline burn.

But putting more oxygen into the cylinder raises the combustion temperature, which increases the creation of nitrogen oxides, which are formed with nitrogen pulled from the air. It also increases the tendency of gasoline to evaporate, a phenomenon that releases unburned hydrocarbons, another ingredient of smog, into the air.

Several years ago California ordered gas reformulated to cut these evaporative emissions, and last year New York, New Jersey, and the six New England states followed suit. Oil companies initially protested those steps bitterly, because it required them to remove some cheap, abundant components of gasoline, but more recently, several have voluntarily taken the same step in other parts of the country, as their contribution to cleaner air. The evaporations come from under the hood and from refueling.

The Daschle amendment would partly exempt the oil companies that used ethanol from the anti-evaporation limits on gasoline.

Senator MOYNIHAN. The distinguished Senator from Virginia, we want to welcome you.

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Mr. Chairman, I look forward to these hearings. I join my distinguished friend and colleague from New Jersey in saying that we do need a clarification. This is one of the great mysteries. It becomes an object of much criticism, and I think the sooner we try to define it in clear language so that all can understand it, the better off we will be.

I want to say a few words about my State, Mr. Chairman. I was not a member of this committee at the time the last highway bill was authorized. I joined this committee for the specific purpose of participating in the reauthorization of that bill, which we will be doing shortly. I have done a considerable amount of research, with the help of our current governor and the previous governor of Virginia as to what steps Virginia has taken to begin to qualify for its fair share under the new bill.

I would like to mention several things with respect to my State. As Congress begins to hold hearings on the authorization of a new Surface Transportation Act, the call is for the Federal Government to adhere to its commitments to appropriate transportation funding. Since 1986, the Commonwealth of Virginia has taken the following steps to raise revenue to cover the costs of improvements in its transportation infrastructure.

The General Assembly has gone beyond the traditional motor fuel titling and vehicle license taxes in order to raise needed transportation revenues. The General Assembly has authorized privatization of toll roads where feasible, authorized State operated toll roads, authorized an increase in the general sales tax by half a cent and dedicated those proceeds to Virginia's transportation fund, authorized special tax districts for transportation purposes.

Legislation also has approved an increase in the titling tax on motor vehicles from two to three percent, raised motor vehicle licensing fees by $3, increased taxes on rental cars by one-third, and raised the motor fuel tax by one cent per gallon.

Further, Virginia has increased the road tax differential by one-and-a-half cents per gallon, raised the aviation fuel tax by one percent for the first 100,000 gallons, and one quarter of one percent on additional purchases, dedicated a portion of the recordation tax to rebuilding of Route 58 across the south side of Virginia, and authorized bonds to expedite that $700 million project.

I will put the balance of this statement into the record. I am very proud of what the General Assembly, together with the leadership of two successive governors, has done in preparation for this particular piece of legislation, to establish very clearly our State's willingness to participate and shoulder some of the financial burdens necessary for our State to improve its transportation system.

I thank the Chairman.

[Senator Warner's prepared statement follows:]

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Mr. Chairman, I am pleased that the committee is holding this hearing on the subject of the Highway Trust Fund. The Highway Trust Fund is a very complex program which needs to be fully explained as the Congress begins hearings on the reauthorization of the Surface Transportation Act in 1991. The last few months I have met with a number of groups who are interested in this issue along with other transportation associations located in my State. I look forward to hearing in more detail the nuts and bolts of the Highway Trust Fund by the witnesses invited today to testify before the Subcommittee.

The transportation sector is vital to the economic development of the state of Virginia as we begin the new decade. Today, Virginia's economy is threatened in urban areas where gridlock results in lost time and business. In the rural areas of the State, roads must be built to expand business and residential communities.

As the Congress begins to hold hearings on authorization of a new Surface Transportation Act, the call is for the Federal Government to adhere to its commitments to appropriate transportation funding. Since 1986, the Commonwealth of Virginia has taken steps to raise revenue to cover the costs of improvements in its transportation infrastructure. The General Assembly has gone beyond the traditional motor fuel, titling and vehicle license taxes in order to raise needed transportation revenues.

The General Assembly has authorized privatization of toll roads where feasible, has authorized State operated toll roads, has authorized an increase in the general sales tax by ½ cent (and dedicated it to the Virginia Transportation Trust Fund) and has authorized special tax districts for transportation purposes. The Legislature also has approved an increase in the titling tax on motor vehicles from 2 to 3 percent, raised motor vehicle licensing fees by $3, increased the tax on rental cars by one-third, and raised the motor fuel tax by one cent per gallon. Further, Virginia has increased the road tax differential by 1.5 cents per gallon, raised the aviation fuel tax by 1 percent for the first 100,000 gallons and one-quarter of 1 percent on additional purchases, dedicated a portion of the recordation tax to fund rebuilding of Route 58 across Southside Virginia and authorized bonds to expedite that $700-plus million project.

The total additional "revenue enhancement" from these actions is well over $400 million annually. The General Assembly is doing its part to meet some of the transportation needs of the Commonwealth.

Mr. Chairman, on March 15th, the Governor of the Commonwealth of Virginia, the Honorable Lawrence Douglas Wilder, testified before the Surface Transportation Subcommittee of the Committee on Public Works and Transportation in the U.S.House of Representatives. In his testimony, Governor Wilder estimated that at the end of this fiscal year, Virginia will have a $179 million apportionment balance in the trust fund. These are monies that have been paid in motor fuel taxes intended for use on highway projects in the State. Governor Wilder's request in his testimony was simple, it was "Let our money go."

Mr. Chairman, the Virginia delegation is now in a much better position to work together due to our respective committee assignments, and to pursue our fair share of the Federal funds allocated when negotiations commence with respect to the reauthorization of the Surface Transportation Act. As Governor Wilder stated at the hearing, the Commonwealth of Virginia is prepared to meet its transportation responsibilities. We also expect the Federal Government to also play its traditional part in the negotiations.

Thank you, Mr. Chairman.

Senator MOYNIHAN. I would like to thank the gentleman from Virginia. There is no one who is more thoughtful in anticipating subjects of this kind and being ready when the time comes.

We will not be writing a highway bill in this Congress—as you understand perfectly—but we are now——

Senator WARNER. I hope to return in the next Congress, Mr. Chairman. It is very much on my mind, and I am glad you raised that here this morning. But I am preparing. [Laughter.]

Senator **Moynihan**. You are aware that you have a secret opponent. His name has not been revealed.

Senator **Warner**. That is correct. It may not be revealed before the general election in November.

Senator **Moynihan**. But I could not agree more, and I appreciate your putting the point forward that if we are going to get a good bill up early in the next Congress, which will be the first bill that antedates the State highway program. As we said, when the Surface Transportation Act of 1987 came to the floor, I was the manager, that bill concluded the interstate program, the largest public works program in the history of the world.

Now we go on to other things, and it is no longer just a matter of continuing an enterprise, which as the Chairman said was begun under President Eisenhower. We are on our own next year, and this is the year to start thinking about. I thank the Senator from Virginia most especially.

Senator **Warner**. I want to assert that Virginia will be ready next year.

Senator **Moynihan**. Virginia will be ready, and Warner will be back.

Senator **Warner**. Thank you, Senator.

Senator **Moynihan**. Senator Reid, good morning, sir.

OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM THE STATE OF NEVADA

Senator **Reid**. Mr. Chairman, I thank you for holding this hearing on the highway trust fund and Senator Bryan's bill to free the surpluses, S. 2013. Our roads and highways are victims of the Highway "Mistrust" Fund.

Our roads and highways are victims of the Highway "Mistrust" Fund, just one of the budget gimmicks used to hide the true size of the budget deficit. It is time to end the mistrust and stop the highway robbery. Today's hearing will expose the budget gimmickry for what it is. The Highway Trust Fund provides the most visible example of how fiscal irresponsibility is hurting the country.

Just try to get home in a hurry in rush hour anyplace. In every major city, the roads are jammed and falling apart. Maybe the Administration should read the lips of the people stuck in traffic jams across the country. The message might be unprintable, but it surely is one the smoke and mirror budget officials should hear once in a while.

As you know, Mr. Chairman, the Highway Trust Fund is not the only one we play games with. Social Security is also used in a similar fashion. I strongly support S. 2013, a bill sponsored by my colleague from Nevada, Senator Bryan. I am an original cosponsor of this legislation, which will spend the surpluses for their intended purposes, highway construction.

Our Nation and my home State of Nevada desperately needs the new construction this money would make possible. In February, I held a transportation conference in Southern Nevada where transportation policy makers from across the country gathered to discuss our State's transportation needs.

In Nevada, we learned that 14 percent of urban highways are deficient, as are at least 15 percent of our bridges. Thirty-one percent of our interstate miles are in poor condition, 45 percent of our urban interstate miles are literally falling apart.

Nevada is the fastest growing State in the Union. We need $4.6 billion over the next 10 years for roads and highways in Nevada alone. Only $1.7 billion is coming in, $2.8 billion short.

Draining the trust fund surpluses will not completely address our highway funding needs, but it will help. I commend Senator Bryan for his foresight in offering this legislation and stand committed to helping push it through to enactment at the earliest possible date. I look forward to hearing his testimony as we try to restore common sense to the Highway "Mistrust" Fund, and once and for all stop the highway robbery.

Mr. Chairman, I would like to take just a minute to read a statement that I made on the House floor dealing with the Surface Transportation Uniform Relocation Assistance Act in 1987. There I said,

> Mr. President, before we vote in final passage of this critical highway legislation, I would like to briefly address an issue that deserves further consideration. I am referring to the balance that currently exists in the Highway Trust Fund that cannot be spent. There is currently a $10 billion unobligated balance or reserve that exists in the Highway Trust Fund. Although a reserve is certainly warranted and desirable, $10 billion is excessive and in fact wasteful.
>
> These funds could be used in a more constructive fashion to carry out needed highway improvements. The monies in the trust fund are there because of specific taxes placed on users, the users of this Nation's roadways have already invested billions of dollars in the interstate highway system. We have a mandate to complete the system, and to restore the system. It is a travesty to allow the highway system to degenerate when the funds have already been set aside for this very purpose.
>
> Secondly, Mr. President, it is a sham to use monies in the Highway Trust Fund to improve the overall deficit picture. All this does is temporarily hide the real deficit and delay needed highway improvements, improvements which would increase jobs and stimulate the economy. The level of obligation authority proposed to the Federal Aid Highway Act of 1987 is unreasonably low. I ask that this matter be explored in depth once this legislation is reauthorized.

Of course, as I said in the statement I gave in the Senate in early 1987, there was not an in-depth exploration of this problem, and now we find ourselves with this huge deficit. I appreciate the hearing you are now conducting, Mr. Chairman.

Senator **Moynihan**. We appreciate your bringing that debate of 1987 back to our attention. We were of course debating a bill that had been vetoed, it was a very close thing here in the Senate, but it was an exact 57-33 vote that we sustained. That we overrode the veto of the House is more emphatic in that matter.

But there is this agreement, a wide-ranging bipartisan agreement. I heard a phrase the other day which struck me, that the National roof is leaking. It is time we paid a little attention to it. None would be more concerned about that than the ranking member of this committee, who honors us with his presence this morning.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator **Chafee**. Thank you very much, Mr. Chairman.

I have a statement for the record, if it may be included.

Senator **Moynihan**. Thank you. We will include that in the record. .

[Senator Chafee's statement follows:]

Opening Statement of Hon. John H. Chafee, U.S. Senator From the State of Rhode Island

Mr. Chairman, I am pleased that you have scheduled a hearing on the Highway Trust Fund. This is a timely subject as the Committee starts to think about the future of the Federal-aid highway program which must be reauthorized by October 1 of next year. Congress is also grappling with difficult budget issues for fiscal year 1991 right now, and we are facing some very tough choices.

As it has during the past number of years of high deficits, the highway program will have to continue to compete with other necessary government programs and services as long as there are big deficits. While Gramm-Rudman is in effect, there will have to be corresponding cuts from other existing programs if highway spending is increased. If there are no off-setting cuts proposed for increased highway spending, such cuts will happen through the budget and appropriations process or through a Gramm-Rudman sequester.

It is also my view that money will be in short supply for public works' investments and improvements until we control the growing costs of other Federal expenditures, particularly the escalating costs of health care. There are several areas where government finances a significant part of public facilities and services, and infrastructure capital and health care are two of them. Americans do not seem anxious to increase their tax burden and to the extent that health care costs are rapidly escalating and taking a bigger bit of the tax dollar, health care is crowding out government's investment in infrastructure. The fact is that health care services cannot be deferred like public works investments can be.

In an example related to the Federal-aid highway program, crashes on the highway are costing Federal and State governments billions of dollars each year. When a crash victim is laying on the pavement seriously injured, with or without insurance or other resources to pay the bill, that victim will be transported to the nearest medical facility and will be provided with care immediately. This care will not be postponed or deferred until next year when we have the money.

Fixing a road or bridge, or building a new one can be deferred and often is when the money is not available. Consequently, infrastructure spending is always going to lose out when it competes with health care costs, and Federal, State and local governments are going to come up short for needed infrastructure investments.

That's the bad news. The good news is that in the motor vehicle crash area we have a proven, inexpensive way to prevent not only death and serious injury, but also to prevent a significant amount of the costs of these crashes. And that is to require the occupants of motor vehicles to wear safety belts and to require motorcycle riders to wear helmets. Prevention of death and injury on the highways will result in significant savings which can be channeled into other highway needs.

Mr. Chairman, I am looking forward to hearing from our witnesses today as they discuss the status of the Highway Trust Fund.

Senator **Moynihan**. Our first witness today is our colleague, Senator Bryan, whose legislation is before us on this moment. Then we will hear from Representative McEwen.

We welcome you to the hearing room, sir, and Senator, good morning.

STATEMENT OF HON. RICHARD H. BRYAN, U.S. SENATOR FROM THE STATE OF NEVADA

Senator **Bryan**. Thank you, Mr. Chairman, and members of the subcommittee. Let me preface my comments this morning by personally thanking you for providing us the opportunity for this hearing on S. 2013, which is currently cosponsored by 11 of our colleagues.

As you know, the thrust of this legislation would free up most of the $10.5 billion Highway Trust Fund balance, which is currently being held hostage to mask the size of the Federal budget deficit, and would make available to the states badly needed money for transportation needs.

Mr. Chairman, I congratulate and compliment you for effectively calling to the attention of the Nation the fact that these so-called trust funds are being flagrantly misused. As you pointed out Monday of this week in your eloquent statement on the floor of the Senate, part of the reason for the White House budget summit is that the Administration is beginning to understand that the Congress may not be willing to let them continue to use the revenues of the Social Security system as if they were taxes collected for general purposes.

In my view, you have rendered a great public service by describing how the Social Security Trust Fund is being used to mask the size of the Federal budget deficit.

To quote you, Mr. Chairman, "The misuse of the trust funds is the most egregious breach of trust with which this Government has involved itself in . . ." I heartily concur. The same game, as you know, Mr. Chairman, is being played with the Highway Trust Fund. This is not only a breach of faith with the American public, but is also postponing vital work that should be done now to prevent more costly repairs later to our Nation's highways and bridges.

As you and the members of this subcommittee know only too well, the Highway Trust Fund was established to create a self-sustaining and stable revenue source, wholly separate and apart from general fund revenue. The gasoline taxes collected are dedicated to financing the Federal highway program. This ensures the American traveling public that each and every time they stop at the pump, their gas tank's investment will be returned to them in the form of safer and better roads and bridges.

The United States is on the verge of an infrastructure crisis brought on by crumbling bridges and deteriorating roads. Here are just a few of the facts. Some 40 percent—that amounts to 230,620—of the Nation's 576,508 bridges that are 20 feet in length or greater are rated as substandard. More than 25,000 bridges still in use are more than 80 years old. A total of 5,254 bridges have been closed to traffic.

In 1988, 61 percent of the Nation's more than one million miles of heavily traveled road surfaces—that's some 650,000 miles—were in need of some form of surface rehabilitation. The United States Chamber of Commerce has estimated that traffic delays caused by inadequate roads costs our economy in excess of $26 billion each year. And it has been estimated by the American Association of State Highway and Transportation Officials that highway related capital investments should be $58.5 billion annually through the year 2020 to keep up with our highway needs.

Mr. Chairman, opponents of S. 2013 and those who seek to defend the status quo will argue that there is no surplus, because these funds, they will tell us, are already committed. There is a surplus, and no bureaucratic jargon or financial shell game can disguise it. They will tell you that we have a $10.5 billion cash balance but that they have committed this money to projects already underway.

Within the last couple of months, the Office of Management and Budget has produced a document which I think each member of this subcommittee is familiar with. It reflects what the cash balances are. The cash balance in this account for the fiscal year 1990 is $10,981,000,000. That does not include the interest that is generated from that account, which would amount, in the same year, to another $963 million.

What those who argue to defend the status quo will tell you is that this money is obligated and we cannot make the disbursements or spend down on the trust fund. What they will fail to tell you is that under present law, the revenues continue for an additional two years after the budget authority for the outlays have expired, that is going on beyond the 1991 expiration date, as you know only too well, Mr. Chairman, and the members of this subcommittee, is 1992 and 1993.

Based upon the revenue projections of the most recent year, those two additional years will generate at least $26 billion of additional revenue to the Federal Highway Trust Fund. There is indeed money in this account which ought to be spent down as the public expected for highway purposes.

You will also hear today that the Administration has spent more than they have collected in user fees over the last eight years. They will ask whether we can afford to spend the interest accrued to the trust fund in these austere budget times. I have a simple answer. The Government, in my judgment, made a commitment to the American public when they implemented the gas tax as a dedicated user fee. To say we cannot afford to spend the interest accumulated over the years is a breach of that faith.

Can you imagine, Mr. Chairman, if you or I would contribute to a bank account to pay for our children's education, and when it came time to draw it out, the bank informed us that we were only entitled to the principal? That's in effect what the Administration is saying to us with regard to the Highway Trust Fund.

Thirdly, Mr. Chairman, you will also hear that any additional spending for transportation has to be weighted against competing demands for other worthwhile programs. They will say and argue that spending the trust fund balance will make our job more difficult.

Mr. Chairman, I admit to being very new to the Federal budget process. To those who have served at the State level or who have experience in the private sector, there is something inviolate, sacrosanct, about a trust fund. Lawyers and other fiduciaries who skim interest from their clients' trust accounts or invade the principal go to jail. What the Federal Government is doing, Mr. Chairman, is wrong. It is fundamentally dishonest to the American public to dip into their pocketbooks for a stated purpose, and then not spend that money for the purpose it was intended.

Although there will be those will appear here to oppose this bill, in their heart of hearts, Mr. Chairman, they know this is wrong. In point of fact, a preliminary draft of the National Transportation Plan, which I know you and the members of this subcommittee have, called for the spending down of the surplus.

Let me also make it clear, Mr. Chairman, that in no sense do I intend, with S. 2013, to modify or change in any way the Byrd

Amendment, which is necessary to protect the balance of that account, so that it not be committed beyond the revenues that are in that account. Any modification which you or the members of the subcommittee feel are necessary to this bill to make that perfectly clear is consistent with this Senator's intent in offering the bill.

Senator MOYNIHAN. Good. So noted.

Senator BRYAN. Mr. Chairman, let me conclude by congratulating you for holding this hearing, and looking into what I consider a most disingenuous treatment of the Highway Trust Fund. I would hope that there may be appetite on the committee to redress what I consider an imbalance that has occurred for many, many years, and I thank you again for your courtesy in providing this hearing.

[The information from OMB previously referred to follows:]

Highway Trust Fund　　　　Report 1 of 3
20X8102
Income Statement
For the Period 10/01/89 Through 02/28/90

	Current Month	Year-To-Date
REVENUES		
Excise Taxes (Transferred from General Fund):		
Trucks & Buses	$ 0.00	$ 27,045.522.00
Diesel & Spec Motor Fuel	258,217,000.00	1,353,323,839.00
Tires	26,144,000.00	133.595,511.00
Repealed Taxes	0.00	(286.542.00)
Use of Certain Vehicles	12,492,000.00	140,432,380.00
Trucks	100,520,000.00	530,701,000.00
Gasoline	797,768,000.00	4,075,563,088.00
Gasohol	8,442,000.00	48.624,000.00
Gas/Manufacture Gasohol	7.783,000.00	44.487,000.00
Less Trans to Land &water	0.00	1,000,000.00
Less Trans to Boat Safety	9.103,000.00	46.085.000.00
Total Tax Receipts	$ 1,202,263,000.00	$ 6,306,400.798.00
Reimbursements to the General Fund (Refund of Taxes and Estimated Credits):		
Gasoline Used on Farms	$ 0.00	$ 32,135.830.00
Gasoline Nonhighway, Transit	0.00	15,306.640.00
Gasoline - Other	0.00	90,318,100.00
Qualified Taxicabs	0.00	249,770.00
Commercial Fishing Vessels	0.00	7,877.460.00
Gasohol	0.00	19,175,370.00
Farm Aviation	0.00	488,400.00
Diesel Vehicle Rebate	0.00	15,004,800.00
Fuel Mixtures	0.00	144,100.00
Exempt Use	0.00	8,136.500.00
Total Reimbursements Tax Receipts	$ 0.00	$ 188.836,970.00
Net Tax Receipts	$ 1,202,263,000.00	$ 6,117,563,828.00
Interest on Invests.	$ 5,594,724.24	$ 378,342,555.50
Accrued Interest Inc.	112,415,762.47	232,002,112.51
NET REVENUES	$ 1,320,273,486.71	$ 6,727,908.496.01
NONEXPENDITURE TRANSFERS		
Dept. of Transportation	$ (1,017,000,600.00)	$ (5.775.167,942.00)
SURPLUS/(DEFICIT)	$ 303,272,886.71	$ 952.740,554.01

1/ Includes Mass Transit Account.

Highway Trust Fund
20X8102
Balance Sheet
as of 02/28/90

Report 2 of 3

ASSETS		
Undisbursed Funds:		
Available For Investment	$ 1,548.07	
TOTAL UNDISBURSED BALANCE		$ 1,548.07
Receivables:		
Interest Receivable	$ 232,002,112.51	
TOTAL RECEIVABLES		$ 232,002,112.51
Investments		
U S Treasury Certificates of Indebtedness:		
8-7/8% matures 06/30/90	$ 1,510,409,000.00	
9% matures 06/30/90	33,213,000.00	
9-1/8% matures 06/30/90	15,504,378,000.00	
NET INVESTMENTS		$ 17,048,000,000.00
TOTAL ASSETS		$ 17,280,003,660.58
LIABILITIES & EQUITY		
LIABILITIES		
EQUITY		
Beginning Balance	$ 16,327,263,106.57	
Net Change	952,740,554.01	
TOTAL EQUITY		$ 17,280,003,660.58
TOTAL LIABILITY & EQUITY		$ 17,280,003,660.58

Highway Trust Fund
20X8102
Program Agency Activity
For the Period 10/01/89 Through 02/28/90

Report 3 of 3

	Current Month Activity	Year-To-Date
UNDISBURSED BALANCES:		
Federal Aid to Highways	$ 526,591.24	$ 44,362,476.07
Right of Way Revolving Fund	(2,297,411.85)	14,305,960.13
Trust Fund Share of Hwy Progs	0.00	1,724,307.94
Nat'l Highway Traffic Sfty Adm	15,959,948.38	(4,385,826.67)
Baltimore Washington Parkway	(529,278.06)	534,323.20
Highway Safety Research & Dev	0.00	598,718.57
Overseas Highway	0.00	78,266.00
Mount Saint Helens	(20,076.24)	8,519,140.77
Acceleration of Projects	0.00	501,358.38
Highway Related Safety Grants	(621,760.01)	843,015.94
Intermodal Urban Demos	(9,586.77)	1,899,592.67
Traffic Control Signal Demo	(101.40)	527,115.43
Bicycle Programs	0.00	91,351.26
Carpools & Vanpools Grants	0.00	136,333.61
Nat'l Park Servic Construction	(542,203.13)	3,187,191.35
Motor Carrier Safety Grants	(3,896,301.98)	(559,746.22)
Safety Economic Dev Demo Proj.	(27,137.00)	337,095.00
Safety Improvement Project	(7,153.06)	1,455,943.94
Airport Executive Demonstrat'n	0.00	378,853.66
Theodore Roosevelt Bridge	0.00	370,000.00
Mass Transit	48,052,097.82	6,817,864.18
Vehicular & Ped. Safety Demo	0.00	98,835.68
Nuclear Waste Trans Sfty Demo	(15,000.00)	1,236,501.91
TOTAL UNDISBURSED BALANCE	$ 56,472,627.94	$ 83,058,672.80
EXPENSES:		
Federal Aid to Highways	$ 899,473,408.76	$ 5,841,084,880.47
Right of Way Revolving Fund	2,297,411.85	1,694,854.82
Trust Fund Share of Hwy Progs	0.00	6,399,768.19
Nat'l Highway Traffic Safty Ad	(5,959,948.38)	78,703,732.18
Baltimore Washington Parkway	529,278.06	3,129,292.06
Highway Safety Research & Dev	0.00	1,689,826.65
Overseas Highway	0.00	143,264.00
Mount Saint Helens	20,076.24	98,218.52
Highway Related Safety Grants	1,622,360.01	5,843,396.73
Intermodal Urban Demostration	9,586.77	2,361,517.65
Traffic Control Signal Demo	101.40	37,894.24
Carpools & Vanpools Grants	0.00	6,072.55
Nat'l Park Service Construct	642,203.13	4,149,243.74
Motor Carrier Safety Grants	6,896,301.98	26,860,863.05
Safety Economic Dev Demo Proj	27,137.00	1,581,147.00
Safety Improvement Project	7,153.06	18,850.91
Airport Executive Demonstrat'n	0.00	121,146.34
Mass Transit	54,947,902.18	348,577,252.77
Vehicular & Ped. Safety Demo	0.00	921.02
Nuclear Waste Trans Sfty Demo	15,000.00	130,675.03
TOTAL EXPENSES	$ 960,527,972.06	$ 6,322,632,817.95

Highway Trust Fund
20X8102
Program Agency Activity
For the Period 10/01/89 Through 02/28/90

Report 3 of 3

	Current Month Activity	Year-To-Date
NONEXPENDITURE TRANSFERS:		
Federal Highway Administration	$ (904,000,600.00)	$ (5,340,167,942.00)
Mass Transit Account	(103,000,000.00)	(350,000,000.00)
Natl Hghwy Traf Sfty Adm	(10,000,000.00)	(85,000,000.00)
TOTAL NONEXPEND TRANSFERS	$ (1,017,000,600.00)	$ (5,775,167,942.00)

Financial Management Service
Finance Division
Funds Accounting Branch
Date : 16 APR 1990

Highway Trust Fund
20X8102
Income Statement
For the Period 10/01/89 Through 02/28/90

Report 1 of 3

Mass Transit Account

	Current Month	Year-To-Date
REVENUES		
Excise Taxes (Transferred from General Fund):		
Diesel & Special Motor Fuel	$ 17,214,000.00	$ 88,885,000.00
Gasoline	88,641,000.00	450,920,000.00
Gasohol	5,149,000.00	29,532,000.00
Total Tax Receipts	$ 111,004,000.00	$ 569,337,000.00
Reimbursements to the General Fund (Refund of Taxes and Estimated Credits):		
Total Reimbursements		
Net Tax Receipts	$ 111,004,000.00	$ 569,337,000.00
Interest on Invests.	$ 1,125,494.40	$ 140,998,241.16
Accrued Interest Inc.	44,830,248.94	94,711,726.31
NET REVENUES	$ 156,959,743.34	$ 805,046,967.47
NONEXPENDITURE TRANSFERS		
Mass Transit Account	$ (103,000,000.00)	$ (350,000,000.00)
SURPLUS/(DEFICIT)	$ 53,959,743.34	$ 455,046,967.47

Highway Trust Fund
20X8102
Balance Sheet
as of 02/28/90

Report 2 of 3

Mass Transit Account

ASSETS		
Undisbursed Funds:		
Available For Investment	$ 434.28	
TOTAL UNDISBURSED BALANCE		$ 434.28
Receivables:		
Interest Receivable	$ 94,711,726.31	
TOTAL RECEIVABLES		$ 94,711,726.31
Investments		
U S Treasury Certificates of Indebtedness:		
8-7/8% matures 06/30/90	$ 464,596,000.00	
9% matures 06/30/90	33,213,000.00	
9-1/8% matures 06/30/90	6,051,947,000.00	
NET INVESTMENTS		$ 6,549,756,000.00
TOTAL ASSETS		$ 6,644,468,160.59
LIABILITIES & EQUITY		
LIABILITIES		
EQUITY		
Beginning Balance	$ 6,189,421,193.12	
Net Change	455,046,967.47	
TOTAL EQUITY		$ 6,644,468,160.59
TOTAL LIABILITY & EQUITY		$ 6,644,468,160.59

Highway Trust Fund — Report 3 of 3
20X8102
Program Agency Activity
For the Period 10/01/89 Through 02/28/90

Mass Transit Account

	Current Month Activity	Year-To-Date
UNDISBURSED BALANCES:		
Mass Transit	$ 48,052,097.82	$ 6,817,864.18
TOTAL UNDISBURSED BALANCE	$ 48,052,097.82	$ 6,817,864.18
EXPENSES:		
Mass Transit	$ 54,947,902.18	$ 348,577,252.77
TOTAL EXPENSES	$ 54,947,902.18	$ 348,577,252.77
NONEXPENDITURE TRANSFERS:		
Mass Transit Account	$ (103,000,000.00)	$ (350,000,000.00)
TOTAL NONEXPEND TRANSFERS	$ (103,000,000.00)	$ (350,000,000.00)

Financial Management Service
Finance Division
Funds Accounting Branch
Date : 25 APR 1990

Senator Moynihan. We thank you for your initiative. If it is agreeable to the committee, I think we might hear our colleague from the other body, Mr. McEwen, and then we can proceed.

Mr. McEwen, good morning and welcome.

STATEMENT OF HON. BOB McEWEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. McEwen. Good morning, Mr. Chairman, and thank you very, very much.

I am here for two reasons. First of all, I understand it is appropriate on occasions like this to begin by congratulating the Chairman on holding a hearing of this sort.

Senator Moynihan. Yes, we do that a lot. [Laughter.]

Mr. McEwen. Having witnessed that as virtually as an "if it please the court" beginning of the presentation, this may be an exception. I trust not. With me it is a genuine expression of appreciation for the leadership you have shown in recent weeks about an issue that is underlying the entire budget process.

I know we must restrict our remarks to something that I am very much interested in, the transportation trust funds, but the whole question that we embarked upon in 1969 of taking trust funds and accounting them as revenue in, and then being able to use those for any other purpose through the borrowing mechanism, is something that has long needed to be addressed, and I congratulate you for doing it, and I wish you success.

We will take it one bite at a time, and I will say that the remarks of the distinguished gentleman are absolutely correct. I have been interested in this issue for well over a decade.

When we supported the five cent a gallon tax increase from four cents to nine cents in 1982, we said it was for a single purpose, that during the 1980s we were facing a severe infrastructure difficulty, and that we would support that kind of an increase, because we were going to have to do what was necessary to maintain this massive investment we had made in recent years.

Yet, at that time, when the trust fund was less than $9 billion, now a decade later, the trust fund balances have more than doubled. That was not the purpose for which we embarked upon this effort, to increase balances in the trust fund. The goal was to increase repairs for our infrastructure.

We currently—I know that the good folks down at the Office of Management and Budget with their green eyeshades and lovely cash drawers with extra money to borrow from like to tell us that there really isn't any money there. They have $22 billion in obligations outstanding.

Mr. Chairman, we understand how that works. If a bank is setting there with $28 million in outstanding loans, and $10 million in the account, then any frugal manager would say that all these funds are not being used properly. We are going to receive the outstanding loans over a period of time, we can go ahead and loan what we have sitting here doing nothing for us.

We are going to receive money back for these $22 billion in commitments that we have over a period of time. The testimony we had yesterday in the House committee estimated that the minimum balance we could begin to spend was $3 billion more a year. Then it went up higher than that to as high as $6 billion or $10 billion that we could safely and frugally use from the current cash balances and the current revenue projections.

Therefore, there is a surplus in the trust fund. There absolutely is, and we can and should do what is necessary to repair our infrastructure. I have a bill that would take these off-budget, so we would not have to play this game with the appropriations committee every year where they get credit.

You talk about candy in a candy store—they are rewarded if they will back up money in the trust funds. They then get a ticket for however much they back up in the trust funds, and they get credit that they can increase spending in some other program, anywhere else in the budget.

If there is any pet project, they can say "Well, if we just back up another $500 million in the airport trust fund, or throw another billion up in the highway trust fund, then I can go ahead and do my spending over here for this much more popular issue."

As long as that incentive is there, I don't think we are going to address this properly. Therefore, my legislation would take all of those off budget.

In the short run, rather than facing that issue, I think the legislation of the gentleman we are considering here today is absolutely correct—that we should and absolutely must get about the business of restoring the trust to the trust fund, so that every time someone pumps a gallon of gasoline, they do it for the purpose of believing that the highways are going to be repaired, and not to maintain a cash drawer for those at OMB to borrow from at will.

With that, I thank you and congratulate you for holding this hearing. I wish you success not only in this issue, but the entire trust fund question.

Thank you very much, and I look forward to your questions.

Senator **Moynihan**. Wow. That was a tornado that came through this hearing room. That is very powerful testimony, and we thank you very much, Mr. McEwen.

Let's see, how shall we proceed? Our ranking member, the Senator from Idaho, Mr. Symms, is here. Would you like to proceed?

OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM THE STATE OF IDAHO

Senator **Symms**. Mr. Chairman, why don't you go ahead if we have some questions? I have a statement I will make, but I don't have to make it right this minute. I didn't mean to walk in here and interject myself. I am glad to see my two colleagues here this morning. If you prefer, I can get mine out of the way right now.

I do want to compliment you and thank you for holding this hearing on the mechanics of our highway funding. I want to thank Senator Bryan and Congressman McEwen for being here, I think this is a most important issue. I know that Senator Bryan and I had the interests of rural western states when we began these deliberations. We have had a chance to review some of the testimony we will hear today, and much of it will be very useful to the coming debate on the Federal Aid Highway program and the trust funds.

I am especially pleased with Assistant Secretary Moore's written statement, although I disagree strongly with the conclusions that are drawn with respect to the treatment of the trust funds and the overall budget process. However, it is a well-written, lucid explanation of how the trust fund works, and some of the code words used in accounting processes.

Obviously, there will continue to be a debate and disagreement about many of these issues. For instance, should we spend the interest accruing in the trust fund accounts? Is the highway account cash balance of $11 billion real or just an illusion like the funds not yet paid on a check that is already written?

Should the user-financed programs be treated exactly like the programs financed out of the general tax revenues?

First, let's remember that the Nation has a tremendous unmet transportation infrastructure needs—tremendous unmet needs. Over the past two years, one report after another has documented the extent to which our investment in highways, bridges, and airports has been insufficient.

Despite the fact that documented needs are clearly meant to make transportation programs a budget priority, most of these reports are met with a singular indifference by the press and/or much of the public. It just does not always carry the momentum that some of us that are interested in it wish it did.

A second point directly related to the unmet needs is this. Many in the Congress and on the Transportation Committee contend that the Federal fuel and other user fees will have to be raised if we are to begin to meet those unmet needs.

To put it bluntly, Congress cannot and should not ask highway users to pay higher gas taxes and diesel taxes while we have a substantial balance in that account. We must make that commitment to draw the balance down, in my view, before we will be able to make serious considerations for the tax increase.

It makes good accounting sense, even if you look at the transportation programs purely as a question of budgetary priorities. It is good public policy to draw down the balances given the tremendous need for the investment.

The last point I want to make is to stress that the Federal Aid Highway program has its own control mechanism called the Byrd Amendment, to protect the highway account against spending in excess of available revenues. The Byrd Amendment would automatically trigger a reduction in highway spending if revenues were insufficient to meet the commitments against it.

I want to explain briefly the draft legislation that is in each of my colleagues' packets. We are looking for sponsorship and support on this from the rest of the committee. We will be circulating the legislation to all offices shortly, along with a section-by-section analysis and a "Dear Colleague" letter.

Essentially, this bill will increase spending in programs funded out of the highway and airport trust funds at a substantial but reasonable rate given current balances and revenues to the three accounts. Over a four-year period beginning in fiscal year 1991, the legislation would raise the highway obligation limitation to $15 billion, a level endorsed by the Nation's governors and many local officials and organizations in the highway community.

Airport spending authority would raise $300 million a year to $1.8 billion, and the airport improvement grant program increased to $3 billion a year in the facilities and equipment program, and to $260 million per year for research and development.

In the mass transit program, which I know is important in your state, the spending authority would be increased by about $1 billion a year up to $2.4 billion a year. In addition, the highway and airport trust funds would be excluded from the deficit calculations under Gramm-Rudman-Hollings, and the trust funds would still be subject to sequester, and would still be included in the unified budget.

I think this would be a big step for us, and I hope we can get some support on this committee, and take one step at a time.

Thank you for your indulgence.

[Senator Symms' prepared statement follows:]

OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM THE STATE OF IDAHO

Mr. Chairman, I am pleased the Public Works Subcommittee is holding this hearing to discuss the mechanics of financing in the transportation trust funds, paying particular attention to the Highway Trust Fund. This is a very important issue, not well understood either by the general public or by most of us here in Congress, and I'm glad we have a panel of expert witnesses to help explain it to us.

I also want to welcome Senator Bryan to the Committee. As a former governor, he knows very well the importance of the Federal-aid highway program in meeting the transportation needs of his state, and I know his senior colleague from Nevada, as a member of this committee, will be actively promoting the interests of our rural, western states when we begin deliberations on the next highway bill. In addition, we'll hear from my friend, Congressman Bob McEwen, a member of the House Public Works Committee who knows these issues very well and has his own legislative proposal for dealing more equitably with the transportation trust funds and the programs they support.

I have had a chance to review some of the testimony we'll hear today, and much of it will be very useful as we debate federal budget priorities and the treatment of the transporation trust funds in the unified budget.

I am especially pleased with Assistant Secretary Moore's written statement; although I disagree strongly with the conclusions she draws with respect to the treatment of the trust funds in the overall budget process, it is a well written, lucid explanation of how the trust fund works and some of the code words used in the accounting process.

Obviously, there will continue to be debate and disagreements about many of these import issues: for instance, should we spend the interest accruing to the trust fund accounts? is the Highway Account's $11 billion cash balance REAL or just an accounting illusion like the funds not yet paid on a check that's already written; should user financed programs be treated exactly like programs financed out of general tax revenues when we set the nation's annual budget? But there are a few points all of us ought to bear in mind while we slug our way through the details of the Highway Program's accounting scheme that is a budgeteer's dream.

First, let's remember the nation has tremendous unmet transportation infrastructure needs. Over the past two years, one report after another has documented the extent to which our investment in highways, bridges, and airports has been insufficient even to maintain our existing facilities. In 1988, the National Council on Public Works Improvement recommended a 100 percent increase "in the amount of capital the nation invests each year in new and existing public works." "In 1985," the Council noted, "this amount was approximately $45 billion." In addition, the Office of Technology Assessment and groups like the Highway Users Federation—we'll hear from Les Lamm today about the investigation of this issue—and AASHTO have studied and observed the woefully inadequate funding for transportation infrastructure at all levels of government. Despite the fact the documented needs are clearly great enough to make transportation programs a budgetary priority, most of these reports are met with singular indifference by the press and much of the public.

A second point, directely related to the unmet needs is this: many in Congress and in the transportation community contend that federal fuel and other user fees will have to be raised if we are to begin to meet those needs. To put it bluntly, Congress cannot and should not, in my opinion, ask highway users to pay higher gas and diesel taxes while we have a substantial balance in the Highway Account. Congress must make a commitment to drawing down that balance before serious consideration can be given to another tax increase. It makes good accounting sense, and even if you look at transportation programs purely as a question of budgetary priorities, it's good public policy to draw down those account balances, given the tremendous need for a greater investment in transportation facilities.

The last point I wanted to stress here is the Federal-aid Highway Program has its own control mechanism, called the Byrd Amendment, to protect the Highway Account against spending in excess of available revenues. The Byrd Amendment would automatically trigger a reduction in highway spending if revenues were insufficient to meet the commitments against it.

Now, I want to explain briefly the draft legislation included in the packet my colleagues on the Committee have before them. I'll be circulating the legislation to all offices shortly, along with a section-by-section analysis and a Dear Colleague inviting Senators to cosponsor the bill prior to its introduction.

Essentially, the bill will increase spending in programs funded out of the Highway and Airport Trust Funds at a substantial but reasonable rate, given the current balances and revenues to the three accounts. Over a four-year period, beginning in FY 1991, the legislation would raise the highway obligation limitation to $15 billion—a level endorsed by the nation's governors, many local officials, and organizations in the highway community. For airports, spending authority would rise $300 million a year to $1.8 billion in the Airport Improvement Grant program; increase to $3 billion per year in the Facilities and Equipment program and to $260 million per year for research and development. And in the Mass Transit program, spending authority would be increased by about $1 billion per year to $2.4 billion. In addition, the Highway and Airport Trust Funds would be excluded from the deficit calculations under Gramm-Rudman-Hollings (the trust funds would still be subject to sequester and would still be included in the unified budget).

I believe passage of this legislation would put us on the right course for economic growth and a little honesty in our budgetting process. I hope my colleagues on the Committee will give it very serious consideration.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Thank you. I would like to make a statement here as well.

I would like to know what Mr. Bryan and Mr. McEwen think, and also any of our colleagues think, about two points. One is that we are about to raise taxes in this country. That became clear with Mr. Fitzwater's statement yesterday. They will not be raised by any branch of the Government. We might get the Supreme Court to order them to be raised, but they are going to be raised.

Among the taxes that will be raised, there will be energy taxes. I think this committee had better be thinking of how those taxes will be used. We have had our gasoline tax, which goes back to about 1930—doesn't it? In 1932, that was a general fund tax, although it was understood it would be used for highways that the Federal Government was beginning to build—the farm to market roads, and things like that.

But in 1956, when the present regime was put into place, this was a trust fund, as Mr. McEwen said, and those monies went into trust funds. We have to ask whether we want to insist on that established principle continuing.

I make two points. One is that the present gasoline tax, when it was set and put in place in 1956, in constant 1988 dollars, would have been about 13 cents. It rose to 16 cents in 1959, and it is down to 9 cents now. So we are paying less in gasoline taxes than we did when the highway system began.

More importantly, and this is something I think we really have to ask ourselves, is it understood that gasoline prices in the country today are two-thirds of what they were in 1950? They are the lowest they have been in the post-war period. Mr. McEwen agrees.

Part of the problem of the highway usage is the extraordinary increase in the number of automobiles associated with a price—I think the price of gasoline in Canada is half again the price of gas in the United States—more than that? We have no more oil to be found in the lower 48, we are bringing in half our oil now. Canada I think is entirely self-sufficient, and yet they choose as a matter of transportation policy to set a certain price on gasoline which sets a certain utility on automobiles.

It is killing Southern California—the number of automobiles.

Both of these things have to be considered. One is do we want to keep the price of gasoline at a level which encourages increased traffic beyond the capacity of any system to handle it? We had testimony from the Florida high speed rail commission about four years ago, thinking about how to handle the traffic from Miami to Orlando by the year 2020—which is not that far away.

They anticipate they will need 22 lanes of interstate highway north and south. That's 44 lanes, all told.

Russell Baker, in a column which was headed with a terse World War II announcement said that one of our states was missing. We can't do that. We have to ask how much we want to restrain the growth of automobiles, or can we manage it with the growth of the highways. Second, we want to ask whether these monies are trust fund monies.

I just wanted to make that point, I didn't want to make a speech.

One other thing, though. I am sure you will both agree. We talk about the cost of building new facilities, new systems. Remember that there is a cost that takes place immediately. If we let a system deteriorate, the cost of that system goes up that next day. It is paid instantly in the price of transportation of goods and people, is it not, sir?

Senator Bryan. The United States Chamber of Commerce has estimated that it costs us more than $26 billion.

Senator Moynihan. If we had a system up to par—Mr. McEwen?

Mr. McEwen. Just in lost man hours. That's not the increased cost of repairs. As you know, maintenance costs are one level, but if you let them deteriorate beyond a certain point, then the costs of repair are two to three times what they would have been if they had been maintained.

What we are doing now is eating our seed corn, as we are putting less and less into repair and maintenance, the need is just tremendous. I would say to the Chairman, in pointing out not only the current need, which is far more than anything this bill addresses, and not only the need in the future is tremendous, as you pointed out, but we are playing with first using these trust funds in this manner.

There is a symbiotic relationship—in the House it is the Appropriations Committee and the Ways and Means Committee. The Appropriations Committee backs up these funds until they create these large surpluses, and congratulate themselves on presenting a lower budget figure. Then the Ways and Means Committee is forced to come up with the increased revenue.

In the last reconciliation package, they came out like little choir boys just as innocent as can be out on the floor and said "Oh lo and behold, we will just take somebody's trust funds and use them for general revenue, and doesn't that make sense and it solves everyone's problems. We have no new taxes and we can balance the budget." Shortly before the time to break for Christmas, it looked as if it was going through.

Some of us were not unlike Yogi Berra when he said it was the most unheard of thing he had ever heard of, that is that you do what is wrong in the first place, then you compound it by stealing and saying it wasn't being used, therefore it was doing a service to relieve you of it. That's the situation we are facing right now. The idea that these funds are not being used for the purpose for which they were paid creates the incentive when we look at taxes over these next few months, to say well, they are not being used anyway, why don't we raise more, and we will balance the budget with it.

That tremendous transportation dilemma facing us will totally be ignored.

Senator MOYNIHAN. That is a very powerful statement. Senator Bryan, we will hear from you, then we will go ahead.

Senator BRYAN. Mr. Chairman, if I could take a stab at least a part of the question you raised rhetorically—should we continue to maintain the trust fund concept. One could, I suppose make the argument. I don't subscribe to it. I would reject it, and that we ought to indeed commingle the monies that are collected from our Federal highway taxes and put it into a general fund. I would reject that.

It seems to me that the trust fund system has served us rather well, even though in my view, as I have testified, we have violated that trust by not using all the monies for the purpose for which they were intended. But I think the trust fund makes a lot of sense to us.

My concern is recognizing that we face a tremendous deficit problems. The pressures are mounting, and we are all aware of those, and the discussions that are occurring between the Congress and the White House. If we ever use the Federal highway gas tax to fund the general operation of Government, I believe one penny on that would produce about a billion dollars.

Then it seems to me we come addicted to that as a financing mechanism, and you in effect invade or preclude the states and local governments, which have not done a bad job. In my own State, Mr. Chairman, we pay the highest gas taxes in the country, I believe including the Federal gas tax it is something like 23 or 24 cents a gallon. Still we are not beginning to meet the needs we have just for basic infrastructure of a rapidly growing community, particularly in southern Nevada.

So I would hate to see us succumb to that temptation. One can make the argument, as you are suggesting, that perhaps we pay too little in the way of gas taxes, and we need to pay more. But if that indeed is the conclusion that you reach, I would respectfully submit that that ought to be dedicated to the kind of concerns I know that you face, having been to New York City and seen the conditions of the bridges and roads in your own home state, I know the needs there are enormous, just in that metropolitan area.

Increases that might be deemed appropriate for the Federal gas tax, in my judgment, ought to be devoted to basic transportation needs, and should not be commingled with the general functions and obligations of Government.

Senator **Chafee**. Mr. Chairman, we have eight witnesses stacked up here.

Senator **Moynihan**. And a new Senator has arrived. May I ask Senator Graham if he wants to make some general statements?

Senator **Graham**. Thank you Mr. Chairman, I have no statement to make.

Senator **Moynihan**. Senator Reid.

Senator **Reid**. Mr. Chairman, I do have a question I would like to ask my colleague.

Senator Bryan, the Administration has claimed that commitments have been made for these trust fund balances. They seem to be ignoring the fact that the law stipulates revenues will continue to be collected two years after these commitments expire.

I would like to know if our bill require that more be spent than is expected to be raised?

Senator **Bryan**. No, it does not, and I tried, Senator Reid, to make it very clear in my testimony, that there is in no way an attempt to circumvent what I consider the very salutary effects of the Byrd Amendment, which would preclude the fund ever being committed beyond its revenue source. I think that makes a lot of sense in terms of public policy.

What you see from the Office of Management and Budget, they talk about commitments in excess of cash balance. You see in the 1991 column $21,645,000,000 as if, my goodness, we are overcommitting that fund.

As you know, they way this fund is structured, after the budget authority expires for the outlays, two additional years, 1992 and 1993, under the existing law, if nothing more is done, the revenues continue to be collected. If you take the last year under this chart, 1991, where the projected revenue collection, the tax received column, that's $13.7 billion a year. That comes to about $27.5 billion in 1992 and 1993 that will be collected in new receipts under the existing law.

So the answer to your question, Senator Reid, is that it does not. This bill would in no way compromise the integrity of the fund, which the Byrd Amendment protects, as you know.

Senator **Reid**. One last question, Mr. Chairman. The Administration argues that we can't afford to spend down the trust fund balances in these austere budget times. We have heard this argument for the last 10 years. The trust fund surplus has been around since 1975. When do you think the time will be right? Did the original version of the President's National Transportation plan call for the spending down of this trust fund?

Senator **Bryan**. It did do that. I think in their heart of hearts, they know that what they are doing is not right. It is not fiscally responsible, and I think it is breach of the trust and faith that the American public has in us as a Congress.

Senator REID. So they should start spending the money yesterday?

Senator BRYAN. That's my view.

Senator MOYNIHAN. If the Senators from Nevada will allow, I would to put into the record at this point that draft report. It is draft November 3, 1989, Moving America, New Directions, New Opportunities, a Statement of National Transportation Policy. It says with respect to highway and highway safety legislation it will increase the size of the program by spending down the balance in the Highway Trust Fund.

[The material referred to follows:]

Highway and Highway Safety Legislation

Consistent with the national transportation policy, legislation for the Federal-aid highway program and highway traffic safety programs will:

- Increase the size of the program by spending down the balance in the Highway Trust Fund.
- Target the Federal program on systems and projects of national significance, with broader, more flexible funding categories.
- Increase Federal funding and incentives for preservation of transportation facilities.
- Require sound infrastructure management programs as a condition for Federal aid.
- Increase the state and local share of Federal-aid projects for capacity expansion.
- Allow greater flexibility in the use of Federal funds.
- Allow Federal assistance for new toll highways.
- Devote an increasing share of the budget to research and development, including programs to improve highway safety through human factors research, and seed money for private sector or State/local research on new transportation technologies such as intelligent vehicle/highway systems.
- Improve highway safety by targeting Federal financial support and technical assistance to promote more effective enforcement of laws governing speed limits, drunk and drugged driving, and use of safety belts, child safety seats, and motorcycle helmets.

November 3, 1989 Draft of Moving America: New Directions, New Opportunities, Volume 3, p. 75.

Highway and Highway Safety Legislation

To implement the national transportation policy for highways and highway traffic safety, the Administration will develop legislation consistent with the following principles:

Make use of the Highway Trust Fund to address critical highway infrastructure requirements.

Focus the Federal-aid highway program on systems and projects of national significance.

Provide Federal funding incentives for preservation of highways.

Require sound infrastructure management programs as a condition for Federal aid.

Increase the State and local share of Federal-aid projects.

Allow greater flexibility in the use of Federal trust funds for highway and transit purposes.

Allow greater use of toll financing on Federal-aid highways.

Devote additional resources to research and development, including programs to improve highway safety through human factors research, and seed money for private sector or State and local research on new transportation technologies, such as intelligent vehicle/highway systems.

Improve highway and motor carrier safety by targeting Federal financial support and technical assistance to promote enactment and more effective enforcement of laws governing speed limits, driving under the influence of alcohol or drugs, truck driver qualifications and vehicle maintenance, and use of safety belts, child safety seats, and motorcycle helmets; and increase public awareness in those areas.

Final version, February 1990, Moving America: New Directions, New Opportunities, p. 118.

Mr. McEwen, if you could wait just one second, the Senator from Minnesota has arrived, you are welcome, sir.

Senator **DURENBERGER**. I apoligize for being late.

Senator **MOYNIHAN**. You weren't late, you were somewhere else.

Senator **DURENBERGER**. I was tied up with Robin Williams and Whoopi Goldberg. I don't want to begin to compare them to my colleagues.

Senator **MOYNIHAN**. Don't.

Senator **DURENBERGER**. They were doing something called Comic Relief, but they are doing it——

Senator **LAUTENBERG**. We are doing that here too.

Senator **DURENBERGER**. They were doing it for the homeless. I don't have any questions for either of these witnesses.

Senator **MOYNIHAN**. Thank you, sir.

The Senator from New Jersey, who opened our hearing.

Senator **LAUTENBERG**. Thank you, Mr. Chairman. I won't hold our colleagues any longer, but I do feel compelled to push back against the tidal wave here. Trust funds were created for the very specific purpose of dealing with our highway needs. In fact, the needs have outstripped by far that which we have accumulated in our trust account.

Notwithstanding, if we want to spend it down, we can probably come up with all kinds of legislation to get rid of it, but we will be looking at one another, and wondering what happened when we said to the States, "Okay, we are taking on the obligation. You spend the money, lay out the plans, it takes a long time to spend it out."

Then we would be standing here one day with an empty till, saying we had made a miscalculation. The fact is, that we can argue, Senator Bryan, about whether or not in fact there is a surplus. I would take the other side of the argument, and say that there is a surplus temporarily there, but it is really a cash surplus, not a surplus in the true sense of the word.

We can use that interest more effectively, and I think that we ought to. But I think we have to be very careful, in this moment of budget austerity, to start making comparisons between Social Security and transportation trust funds. One has a surplus way beyond its estimated need, and the other one has, by virtue of OMB and other projections, a surplus that is temporary at best.

To our distinguished colleague from across the river, across Independence Avenue—honestly, you are talking to the chairman of the transportation subcommittee and another distinguished colleague from the appropriate body, and our mission is to gather it up and divvy it out, except, of course, when the Congressman from Ohio comes in and wants his share of the divvy.

But we do not just accumulate these surpluses. There is a process here, and I respect any views that are presented, Mr. Chairman, but I submit to you that before we launch off into a major increase in gasoline taxes—and I am one of those who is willing to take a bite out of that—we for years, decades, had convinced the American people that housing near their place of work, near the cities, is no longer affordable, so move out in the boondocks and travel 60 miles each way each day. Over 100 miles a day is not extraordinary.

It was based on an economic calculation that says although the housing is more affordable, we are willing to spend more money on our energy use. We have to come to a conclusion that we are going to provide the kind of transportation system that is consistent with the choice we made to restructure the demographics in our society.

I submit to you that it is not going to be as easy to say we will just increase the gas tax, and that will take care of all our problems. Not at all, my friends. I would hope, Mr. Chairman, that as we see this study unfold, this hearing, we are going to be learning a lot. We should not come to any conclusions after hearing only one set of witnesses, as distinguished as our friends and colleagues are, until we hear from the others.

Senator MOYNIHAN. That is what we will now proceed to do.

Senator CHAFEE. Mr. Chairman.

Senator MOYNIHAN. Yes, Mr. Chafee.

Senator CHAFEE. I would like to say just one quick word. I would direct everyone's attention to page six of Assistant Secretary Moore's testimony where she talks about the fact that if this money, $4.9 billion, should be taken from the trust fund, obviously, as Senator Bryan knows, it would have to be made up elsewhere in the budget.

Particularly under the terms of Gramm-Rudman-Hollings, it would have to be made up, or we would have a sequester. So when you take money from here and add it into the trust fund, you are cutting health, education, the environment, you are doing something somewhere else.

The second point is that I don't want anybody to go away from here thinking that this committee is unanimous in believing that any increases to the gas tax should automatically go into highway trust funds. In our society, I think we have to determine where the priorities are.

Certainly, as Governor, you didn't have all your taxes earmarked. One of the blessings in our State was that none of our taxes were earmarked. We could choose, if we wanted to do something for housing for retarded citizens, or something about highways, or do something about improving the environment, we could take gasoline taxes and use it for that if we so chose.

With earmarked funds, sometimes you get too much money, and sometimes you get too little money. But I don't believe funds should be earmarked. Certainly, if there is an increase in the gasoline tax, I would hope it goes into the general fund so we could use it for what we thought best in this Nation.

Senator MOYNIHAN. On that score, we are going to thank Mr. McEwen. Did you have something to add, Mr. McEwen?

Mr. MCEWEN. Just one sentence, Mr. Chairman, for our friend from New Jersey. One sentence, because your next witness will spend all of her time trying to undo this.

A question that was given to Mr. Foley, the Speaker of the House, concerning the budget. Could the highway account currently support a larger program? This is from the Department of Transportation, January, 1990. The answer is yes. If we were to make full use of the two years of future income as the law now provides, obligation levels could be increased over 35 percent above this year's level for the next three years, and still leave half of the current balance in the trust fund.

Senator **Moynihan**. Perhaps you would let us have that for the record.

Mr. **McEwen**. Sure.

[The material referred to follows:]

U.S. Department of
Transportation

Office of the Secretary
of Transportation

400 Seventh St. S.W.
Washington, D.C. 20590

January 26, 1990

Dear Editor:

Next Monday, the President will announce his budget proposals for fiscal year 1991, which begins October 1. At that time, we will provide you with information about the proposals for the agencies in the Department of Transportation. As background for you in advance of next week's announcements, I am enclosing fact sheets on the highway and aviation trust funds and on the history of funding for this Department.

As you no doubt realize, a great deal of concern has been expressed about the balances in the transportation trust funds. There is a perception that the federal government is building surpluses in the trust funds to reduce the federal deficit. I believe the facts are to the contrary, but the issues are complex and difficult to explain.

There is a surplus in the aviation trust fund -- not because we've failed to increase spending by the Federal Aviation Administration, but because we have been legally constrained in using the trust fund to finance FAA operations. We have funded those critical expenses -- the salaries of air traffic controllers and safety inspectors, and the cost of leasing telephone lines to get flight data to FAA's control facilities, for example; but we have had to pay most of those expenses from the General Fund. Aviation users are getting more than they are paying for, but at the expense of the general taxpayer.

The truth about the Highway Account of the Highway Trust Fund is different: it has a cash balance of over $10 billion, but there are commitments against that balance in excess of $30 billion. Bills for highway projects actually come in over several years, so the Highway Account has been leveraged in this way, with reliance on future revenues as permitted by law.

I hope you will take a few minutes and review the trust fund fact sheets. Given the reliance on user fees to support transportation investments, it is important to understand the truth about the trust funds. An understanding of how the trust funds work and what the balances mean will help enlighten the discussion that will begin next week on the President's budget proposals.

Sincerely,

ORIGINAL
SIGNED BY

Kate L. Moore
Assistant Secretary for Budget and Programs

Enclosures

AIRPORT AND AIRWAY TRUST FUND

Question: Isn't the government using money collected from the passenger ticket tax and other aviation taxes to reduce the federal deficit rather than for aviation purposes?

Answer: No. Government spending for aviation, which has grown significantly in recent years, has far exceeded payments into the aviation trust fund. Over the period 1982 to 1989, $35 billion has been spent by the Federal Aviation Administration (FAA), while only $20 billion has been collected from aviation user fees and deposited into the trust fund. The difference has had to come from the General Fund and has constituted part of the Nation's deficit problem.

In 1990, the government expects to collect about $3.9 billion in aviation taxes. Total aviation funding will be $7.1 billion, far exceeding the taxes collected.

Question: Has this money truly been invested in improving the system?

Answer: Yes, it has. The growth in capital programs has greatly exceeded the growth in operations funding. For example, the program to modernize the air traffic control system has increased from $261 million in 1982 to $1.7 billion in 1990. Federal airport grant funding has increased from $450 million to $1.4 billion, and Research has increased from $72 million to $170 million. During this same period, operations funding has grown from $2.3 billion to $3.8 billion.

Question: If there has been all this growth in spending, why has the aviation trust fund surplus increased from $3 billion at the beginning of 1982 to $6.9 billion at the end of the last fiscal year?

Answer: Despite these significant budget increases, the aviation trust fund surplus has continued to grow because of a provision in existing law, known as the "penalty provision." Application of this provision has effectively limited spending from the trust fund mostly to capital programs (such as grants for airport construction, purchase of air traffic control equipment, and research) and severely restrained the use of the trust fund to pay for important operational activities, such as salaries for air traffic controllers and those who maintain critical air traffic control equipment. Since monies collected from passengers and other aviation system users were legally prevented from being applied to these necessary expenses, the general taxpayer had to step in and pay the difference.

Question: Do you mean that the general taxpayer is paying a major portion of FAA's bills, while the taxes collected from aviation users are sitting unused in the trust fund and collecting interest?

Answer: Yes. The result of the penalty provision application has been that, in the last eight years, the trust fund has only funded about 57 percent of FAA's budget -- 43 percent has been supported by the general taxpayer. Between 1982 and 1989, some $5.3 billion for FAA operations that would otherwise have come from the trust fund was, instead, drawn from the General Fund because of the penalty provision. Since that amount stayed in the trust fund, it earned interest totaling $1.5 billion over the period. So, from 1982 to 1989, about $6.8 billion is directly attributable to application of the penalty provision, nearly equaling the $6.9 billion surplus in the trust fund at the end of 1989. If trust fund support of operations had been at the full level contemplated by Congress in setting the aviation user fee levels, the trust fund surplus at the end of 1989 would have been on the order of $100 million.

Question: How does the so-called "penalty provision" work? Why did Congress create it?

Answer: First, it's important to understand how Congress makes funds available for federal agencies to spend. Congress passes authorizing legislation, usually covering several years, which establishes the maximum amount of funding that will be available for each year. Then, in separate annual legislation, Congress appropriates the funds that an agency will actually be able to spend. The appropriation may not exceed the authorization and is usually less.

The "penalty provision" was added to the authorizing legislation by the committees that develop that legislation to encourage the appropriations committees to actually appropriate the full amount authorized for FAA's capital programs. If they do not, the "penalty provision" requires a reduction of $2.50 in the amount of money that would otherwise be drawn from the trust fund for FAA operations for each $1 shortfall in the capital programs. In fact, appropriations for the capital programs did fall short of authorizations, and trust fund support of operations was significantly reduced as a result.

Question: You say that the trust fund has covered about 57 percent of FAA's budget; what portion should come from the trust fund?

Answer: FAA's cost allocation studies show that services to civil aviation users -- those that pay the aviation user fees -- account for 85 percent of FAA's overall costs. The remainder is accounted for by military and other public uses. So the trust fund should cover 85 percent of FAA's budget, and the General Fund, 15 percent, since the general taxpayer is the beneficiary of public use of the system.

U.S. Department of Transportation January 1990

HIGHWAY TRUST FUND

Question: Why haven't we spent the more than $10 billion cash balance in the Highway Account of the Highway Trust Fund?

Answer: The cash balance is only half the story: the federal government has incurred obligations to pay bills out of the Highway Account that exceed the cash balance.

Question: Do you mean the cash balance is like having money in the bank with numerous checks already written against that balance?

Answer: Yes. As of September 30, 1989, there was $10.6 billion in cash in the Highway Account, but there were outstanding bills totaling $21.6 billion for highway and bridge projects that have already been approved but not yet completed. There was an additional $10.1 billion in spending authority that has been distributed to the States and not yet committed to specific projects, but which will eventually be committed and result in bills to be paid.

The Highway Trust Fund can be leveraged in this way because payments for construction projects stretch out over several years. The law requires user fee revenues to be continued two years beyond the authorization period. The result is that we are counting on future revenues to pay for the bills we have already incurred.

Question: Even if the government didn't distribute any new spending authority to the States, would we still have to collect highway user fees?

Answer: Yes, for about a year and a half beyond this fiscal year.

Question: In recent years, have the user fees collected actually been spent?

Answer: Yes. Since 1982, expenditure levels have exceeded revenue levels by nearly $7 billion. Interest income to the Highway Account during this period has totaled nearly $8 billion and covered the difference between expenditures and receipts.

Question: Some argue that we should spend down the Highway Account balance -- is this reasonable?

Answer: There is a risk in spending down the balance too far in that actual revenues may not match projections and the trust fund might not be able to pay its bills. The law recognizes that possibility and limits the "too far" to two future-years of income; currently, we are at about one and one-half years of future income.

Another important consideration in setting annual Federal-aid highway spending levels in the current budget environment is the effect they have on the federal deficit: an increase in spending without an increase in revenue only increases the deficit.

Question:	If it weren't for the deficit effects, could the Highway Account support a larger program?
Answer:	Yes. If we were to make full use of two years of future income, as the law provides, obligation levels could be increased by about 35 percent above this year's level for three years. That would reduce the cash balance by about $6 billion by the end of 1993. After that period, though, the obligation level would have to be reduced or highway user fees raised. But we can't avoid the deficit impacts: a spending increase from the Highway Account would have to be offset either with spending reductions or tax increases elsewhere in the federal government in order to achieve the statutory targets for federal deficit reduction.

U.S. Department of Transportation January 1990

History Of Funding

DEPARTMENT OF TRANSPORTATION

APPROPRIATIONS AND OBLIGATION LIMITATIONS

$ MILLIONS

MODE	FY 1988		FY 1989		FY 1990	
	President's Budget	Enacted	President's Budget	Enacted	President's Budget	Enacted
Federal Highway Admin.	12,873	11,967	11,496	12,242	11,412	13,560
Nat. Highway Traffic Safety Admin.	218	221	223	225	235	231
Federal Railroad Admin.	17	668	57	672	61	710
Urban Mass Transportation Admin.	1,504	3,215	1,522	3,155	1,565	3,048
Federal Aviation Admin.	5,803	5,714	6,436	6,390	7,393	7,140
U. S. Coast Guard	2,739	2,694	2,976	2,987	3,468	3,060
Maritime Admin.	120	76	472	177	363	154
St. Lawrence Seaway	0	11	0	11	0	11
Office of the Inspector General	30	28	30	29	32	32
Research and Special Prog. Admin.	23	21	25	24	27	27
Office of the Secretary	68	67	69	95	71	98
Total	23,395	24,682	23,306	26,007	24,627	28,071

NOTE: Coast Guard figures include funds appropriated in the Department of Defense appropriations acts for tranfer to Coast Guard.

Senator REID. Mr. Chairman.

Senator MOYNIHAN. Yes.

Senator REID. I know that you have a lot to do and that Senator Chafee is reminding us——

Senator MOYNIHAN. I have nothing to do but hold this hearing.

Senator REID. However, I don't think that we can let Senator Chafee's statement—as much respect as I have for him—let his statement go unchallenged. If in fact we are going to put these monies into the general fund, then we had better change the law, because we are perpetuating a hoax on the American public. Every time anyone buys gasoline, that money is to be placed into a trust fund. That's what the law says.

I don't need to tell the Chairman, because you are the expert on the Social Security trust fund, but, when I practice law, if I took my client's money that was supposed to go into a trust fund and used it to pay my rent or did anything else with it, I would have my license taken away from me, and I could be thrown in jail.

If we are talking about putting this money into the general fund, we had better change the law or realize that we are doing something that, if it is not immoral, it is certainly unethical.

Senator MOYNIHAN. We certainly have got ourselves a subject.

Thank you, Mr. McEwen, very much for coming over.

Senator CHAFEE. Let's not let that shot go unanswered.

Senator MOYNIHAN. The Chair rules that Senator Chafee will respond and then we are going to finally hear from Ms. Moore herself.

Senator CHAFEE. Things were going nicely until we got into unethical and illegal.

Let me say this. This Congress is perfectly capable of changing the law, and have whatever we levy—if we should levy additional taxes on gasoline—to go into the general fund. One Senator, certainly this one, believes this is the way to do business, not to have these funds earmarked. We don't earmark cigarette taxes solely for health purposes. They go into the general fund.

Senator MOYNIHAN. Read my lips. There will be no misuse of the funds.

The celebrated Secretary Moore, will you come forward? And Marshall Washburn, who is the Deputy Assistant Commissioner for Examination of the Internal Revenue Service, and Ronald Iroff, who is with Treasury, the financial management service, and Ms. Moore, who is the Assistant Secretary of Transportation for Budget and Programs.

In light of Senator Chafee's comment, I am going to ask Ms. Moore if you will speak first, although you are listed last. I think in the protocol of the Government, you are a presidential appointee. We welcome you,

Will you proceed, Ms. Moore?

STATEMENT OF KATE L. MOORE, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY GENE McCORMICK, DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION

Ms. **Moore**. Thank you, Mr. Chairman, Senator Symms, and members of the committee.

I thank you for inviting me here this morning to discuss the transportation trust funds. I am pleased to have with me from the Department of Transportation Mr. Gene McCormick, the Deputy Administrator of the Federal Highway Administration.

Senator **Moynihan**. Mr. McCormick, we welcome you.

Ms. **Moore**. Having spent much of my first year at the Department on this subject of transportation trust funds, I have learned that the issues are complex, that the public debate includes a great deal of misinformation, and that setting the record straight is a difficult task. Therefore, I appreciate your initiative in providing a forum for informed debate, especially as we look toward reauthorization of our aviation and surface transportation programs.

I would like to submit officially for the record my longer statement, and then move to an abbreviated version. As I move into that abbreviated version, I think already this morning we have established that the highway trust fund balance is not indeed a surplus. One of the points I do make in my longer statement is that although there is room, given the Byrd Amendment—and I stand by my Q&A that Mr. McEwen just read—that more spending could be generated in the context of the Byrd Amendment.

I would make the analogy, however, that the Byrd Amendment is kind of like a line of credit. Just because you don't use the full line of credit doesn't mean that it counts as an asset on your balance sheet.

Let me move to the question of the budget status of the transportation trust funds. As we look at the questions we have dealt with today, I think we should ask ourselves a series of questions to help us reach a consensus, if that is possible, on these issues. First, I think we have to ask ourselves if we are committed to reducing the total Federal deficit—to reducing the amount of money the Federal Government must borrow from private lenders to pay its bills.

Second, if we are so committed, can we ignore trust fund spending in setting the annual budget for the Federal Government? Third, if not, should the levels of trust fund spending be established as part of the overall budget process?

Finally, if trust fund spending should be established as part of the overall budget process, have we been fair to those who pay user fees when we set those spending levels, and can we be fair in the future?

First, are we committed to reducing the total Federal deficit. Certainly by enacting the Gramm-Rudman-Hollings law, Congress and the Executive Branch established reduction of the Federal deficit as a national priority. As that legislation developed, many members of this committee proclaimed the merits of the proposal, calling large budget deficits the most serious domestic problem confronting the Nation today.

The deficit, as we all know, is a simple calculation—total Federal outlays versus total Federal income. The difference is what the Treasury must borrow from private lenders to pay its bills.

In terms of how Federal spending affects the economy, that is the deficit that counts. It affects the interest rates all borrowers pay, therefore it affects the costs to produce and distribute goods and services in this country and abroad. It affects our basic competitiveness. I would hope that whatever we think about particulars in Federal spending, we can agree that it is critical for us to not lose sight of the total Federal deficit.

Secondly, can we ignore trust fund spending in setting the annual budget of the Federal Government? If we can agree that we must not lose sight of the total Federal deficit, I think we must then agree that we cannot ignore trust fund spending in setting the annual Federal budget. If we do ignore it, and simply deal with non-trust fund programs, we will not be considering the whole picture. We could not ensure that we will meet our deficit reduction targets.

If we accelerate our obligations in fiscal year 1990 to draw down balances, the resulting outlays, in addition to the outlays that will result from obligations already made, and from proposed spending levels in 1991, could result in a significant increase in the Federal deficit above the Gramm-Rudman-Hollings for next year, which already appears more difficult to achieve than it did in January.

Should trust fund spending levels be established as part of the overall budget process? If we can agree that we cannot ignore trust fund spending in establishing the budget, should the trust fund programs be on the table with other Federal programs, or should their spending levels be set first without regard to competing needs, then spending be set for other programs, so as to achieve overall deficit targets?

I suspect it is on this point we may have some disagreement. On the one hand, trust funds are supported by user fees, dedicated to specific purposes. So the argument goes that trust funds should be used without regard to spending in other areas.

I know that the members of this committee are dedicated, as is Secretary Skinner, to seeing that the Nation's transportation needs are met. There is an obvious frustration in not seeing more of the trust fund balances used to meet those needs.

On the other hand, those who pay user fees benefit from other Federal spending programs for which spending might be reduced to offset increased trust fund expenditures. Some are obvious. Transit has been receiving almost twice as much from general Federal revenues, as it has from the transit penny of the fuel tax. It would be a mistake to ignore that.

Aviation users have been benefitting from FAA operations, the services of air traffic controllers, the men and women who maintain the critical air traffic control equipment, and aviation inspectors. These have been funded largely from general revenues. An example of the kind of ironic consequence that might result from setting trust fund spending levels without regard to other Government spending could be that if you did engage in highly aggressive funding for FAA capital programs, that might have to be offset by reductions in general support of FAA operations.

We might go on buying computers for air traffic controllers to use, and not be able to hire the controllers to use them. I think this is kind of a microexample of the kinds of disconnects in the process of making tradeoffs and balancing priorities that could occur if trust fund levels are not set in relation to other spending levels.

From a perspective that is broader than transportation, there is a real possibility of further disconnects in that process.

The needs of our transportation system are real, and Secretary Skinner, the heads of our operating administrations and I have been and will continue to be forceful advocates for meeting those needs, both within the Administration and before the Congress.

But I do not believe that we need special budget treatment which may come at the expense of other DOT transportation functions or other non-transportation programs of critical importance to America to ensure adequate funding for transportation functions supported by trust funds.

That leads me to the final question. Have we been fair to those who pay user fees when we set trust fund spending levels, and can we be fair in the future? I believe the answer to these questions is yes, and I will talk on that point.

With respect to the highway account, the amount of outstanding commitments, as we noted earlier, is three times the cash balance, which means that if we were to end the program at the end of this year, and apportion no new contract authority, we would need an additional $22 billion to pay off those commitments.

To put that $22 billion in perspective, we project that the highway account will receive $14.7 billion in tax receipts next year, so commitments we have already made currently exceed the cash balance by the equivalent of a year and a half of tax receipts.

Senator MOYNIHAN. Could I just interrupt to ask——

Ms. MOORE. Yes, sir.

Senator MOYNIHAN. Is that not the arrangement we have now in place, which is that you make commitments for two years out?

Ms. MOORE. Right. We are now within that two-year boundary, that's where we are. We are using that line of credit that the Byrd Amendment provides. It gives us a two-year revenue flow, and we are within the boundary at this point.

But I think the important fact is that highway account spending has exceeded tax receipts since the creation of the highway trust fund account. In the last 15 years, the highway account has added to the Federal deficit in every year but one. During the last highway authorization period, 1983–1986, spending exceeded user fee receipts by $3.8 billion.

During 1987 through 1991, highway outlays are projected to exceed user fee receipts by approximately $2.3 billion. Those who pay user fees are seeing more spent on highways than they are paying in user fees.

How do we explain this seeming paradox? The answer, of course, is interest. The current cash balance is equivalent to the interest that has been credited to the trust fund, less the excess of outlays over tax receipts. I do not argue that interest should not accrue or that it should not be dedicated to highway purposes. But it is not a user fee, it is an intra-governmental transfer; that is, it is money credited to the trust fund from general revenues.

With the deficit this country faces, the Treasury does not have that interest to spend. If spending is increased to use more of the interest that is accruing, the Treasury will have to borrow to pay the resulting bills.

With respect to the mass transit account, outlays have been less than tax receipts. But total Federal spending on mass transit has far exceeded interest and tax collected in the mass transit account.

In conclusion, permit me to review the questions I posed. Are we committed to reducing the total Federal deficit? I hope so. Our country's future is critically dependent upon an affirmative answer to that question.

Can we achieve deficit reduction and ignore trust fund spending? I don't see how. If we tried, we would not be considering the whole picture, and we could not ensure that we could meet our deficit reduction targets.

If we cannot ignore trust fund spending levels, should they be set as part of the overall budget? I think they have to be. To do otherwise might mean critical underfunding of other Government—even DOT—programs to achieve necessary deficit reductions.

If we set trust fund spending levels as part of the budget process, can we fairly treat those that pay the fees that go into the transportation funds? As I hope I have shown you, we have and can do so. In all cases, aviation, highways and transit, more has been spent than has been paid by users into the trust funds.

Finally, where do we go from here? We have submitted to the Congress a proposal for Federal aviation programs and a reauthorization of the airport and airway trust fund that we believe is bold and aggressive to meet this Nation's critical aviation needs.

We have proposed a 73 percent increase in funding for capital and research programs, elimination of the Federal barrier to airports increasing their revenue base by establishing a passenger facility charge, which we believe is a critical initiative for capacity expansion.

The surface transportation programs need to be reauthorized for fiscal year 1992, and we are working on a proposal for that reauthorization now. Your subcommittee will be a key player in that reauthorization process, and we look forward to working with you in that process.

Thank you again for inviting us to participate, and we would be pleased to answer any questions you may have.

Senator MOYNIHAN. Thank you very much, Madam Secretary. I believe this is your first appearance before this committee.

Ms. MOORE. Yes, it is.

Senator MOYNIHAN. We welcome you, it was a very impressive performance.

Ms. MOORE. Thank you very much.

Senator MOYNIHAN. I think we will hear each member of the panel, and then having heard the general views, we will make some general comments.

Mr. Washburn, if we could hear from the Internal Revenue Service, sir? You have some associates with you.

Mr. WASHBURN. Yes, I do. I have Mr. Mike Orth, the Assistant Regional Commissioner for Criminal Investigation in our North Atlantic Region.

Senator MOYNIHAN. Uh-oh, what's going on here? Good morning, Mr. Orth, we welcome you.

Mr. WASHBURN. And we have Mr. Frank Boland, an attorney in our Office of the Assistant Chief Counsel.

Senator MOYNIHAN. Mr. Boland, we welcome you.

Mr. Washburn.

STATEMENT OF MARSHALL WASHBURN, DEPUTY ASSISTANT COMMISSIONER, EXAMINATION, INTERNAL REVENUE SERVICE, ACCOMPANIED BY MICHAEL ORTH, ASSISTANT REGIONAL COMMISSIONER FOR CRIMINAL INVESTIGATION, NORTH ATLANTIC REGION, INTERNAL REVENUE SERVICE; AND FRANK BOLAND, ATTORNEY, OFFICE OF ASSISTANT CHIEF COUNSEL, PASSTHROUGHS AND SPECIAL INDUSTRIES, INTERNAL REVENUE SERVICE

Mr. WASHBURN. Mr. Chairman, and members of the subcommittee, I appreciate the opportunity to be here today to discuss the collection of highway trust fund revenues.

By way of introduction, I am the Deputy Assistant Commissioner for Examination at IRS responsible for compliance activities involving civil examinations of reported taxes. With me today are Mr. Michael Orth, the Assistant Regional Commissioner for Criminal Investigation for the North Atlantic Region of IRS, and Mr. Frank Boland of the Office of Assistant Chief Counsel, Passthroughs and Special Industries. All of us will be available for questions at the conclusion of my statement.

In the interest of time, I will summarize our prepared remarks.

Senator MOYNIHAN. May I say that all statements will be put into the record.

Mr. WASHBURN. Thank you, Mr. Chairman.

I am going to focus on IRS activities with respect to the Administration of the gasoline excise tax, since that accounts for about 70 percent of our fuel tax collections. Because we have just initiated examinations of returns filed under the new law that went into effect in 1988, data to gauge the compliance effects of that new law are not yet available.

However, current criminal investigations initiated under both the old and new law do indicate that evasion and non-compliance continue.

Our concern over this continued non-compliance has resulted in a number of steps being taken to improve enforcement of the gasoline excise tax. For fiscal year 1991, we are increasing our revenue agent staffing by approximately 50 percent in the excise tax area, of which a significant portion will be devoted to motor fuel tax examinations.

We are nearly doubling our efforts in the area of registration. We have increased criminal investigations resulting in more convictions in recent years. Federal, State and local task forces have been formed to jointly investigate and prosecute evaders. An international task force has been formed with U.S. Customs and Canada to combat smuggling operations.

We are working with Gene McCormick and the Federal Highway Administration to develop a multi-year project to use money from the Highway Trust Fund to fund compliance activities in cooperation with State tax agencies. And we are exploring ways to improve our cooperative efforts with the States, as this relationship has proven very productive in our compliance efforts in recent years.

These current initiatives are directed at enhancing our compliance efforts. In addition, we are committed to conducting a study to determine what the compliance levels are for certain excise taxes, including motor fuels. Longer term, we will utilize the study results to determine what additional actions we think are needed to enhance voluntary compliance with excise taxes.

Thank you for the opportunity, Mr. Chairman, to provide this information. Mr. Orth and Mr. Boland and I are available to answer any questions.

Senator MOYNIHAN. Mr. Iroff, on behalf of the Treasury.

STATEMENT OF RONALD IROFF, FUNDS ACCOUNTING BRANCH MANAGER, FINANCIAL MANAGEMENT SERVICE, DEPARTMENT OF THE TREASURY

Mr. IROFF. Thank you, Mr. Chairman and members of the subcommittee. It is my pleasure to be here today to describe some of the functions which the Financial Management Service performs on behalf of the Highway Trust Fund and a number of other trust funds.

I have been associated with the Funds Accounting Branch and the Financial Management Service for over 15 years, eight of those years as a supervisor of the unit that handles the Highway Trust Fund.

The Funds Accounting Branch is responsible for transferring funds from the trust fund at the request of the appropriate governmental agency. All of our transactions are conducted under guidelines and regulations established to meet the requirements of the legislation which established the trust fund. Our role, therefore, is to transfer monies from the trust fund to an agency authorized to make such request. FMS does not therefore transfer any funds outside the Government.

One of the services we provide is the preparation of the Annual Status of Account Report, which can be found in the Quarterly Treasury Bulletin, which is compiled and published by the Financial Management Service. I brought with me today a portion of that report, and have submitted that for the record.

The Highway Trust Fund is made up of the Highway Account and the Mass Transit Account, in accordance with Chapter 98, Section 9503 of the Internal Revenue Code, as amended. The Secretary of the Treasury by law, therefore, is responsible for administering the Highway Trust Fund. The Financial Management Service serves on behalf of the Secretary of the Treasury as administrator and manager for the Highway Trust Fund and is responsible for the transferring of excise taxes into the trust fund, investment of all receipts in non-marketable public debt securities which are issued to the trust fund, redemption of securities and transfers of the amounts requested by program agencies as authorized by the

Congress and for the issuance of financial reports on the results of trust fund operations.

The Financial Management Service and other Treasury Department entities maintain a close working relationship with a number of agencies in the Department of Transportation such as the Federal Highway Administration and the Urban Mass Transit Administration. As program agencies they are responsible for carrying out and administering programs such as Federal aid to highway and mass transit which have been authorized by legislation to be funded by the trust fund.

Accounting for the trust fund is on an integrated cash and accrual basis. Accruals are made for investment interest receivable. All other income is recorded when deposited, transferred or appropriated, and expenses are recorded when paid by program agencies. Disbursements from the trust fund programs are made by program agencies from transfer accounts which are funded by the highway trust fund and managed by the program agency.

The Secretary of the Treasury is authorized to invest a portion of the trust fund as is not needed to meet current withdrawals. To maximize the fund's earnings, FMS follows Treasury fiscal investment policy which allows the investing of all receipts into the trust fund, and initiates redemptions when disbursements are required by the program agency.

Investments are selected for redemption on a first-in, first-out method, which further maximizes the earnings of the trust fund. Legislation authorizes investments only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Investments of the trust fund are currently exclusively in special issues obligations known as certificates of indebtedness, and they are issued directly to the trust fund.

Investments are made as receipts are identified as trust fund receipts and on the basis of estimated excise tax collections. Transfers to the trust funds of excise tax revenue are made based upon Treasury's Office of Tax Analysis' monthly estimates of the collections made through the Internal Revenue Service. The Financial Management Service accounts for and invests these amounts each month.

Actual collections are certified periodically by the IRS to FMS. FMS processes these adjustments as they receive them.

I hope I have fully described our responsibilities to the trust fund, and the actions that we take on its behalf. This concludes my remarks, and I would be happy to answer any questions.

Senator MOYNIHAN. You have indeed, Mr. Iroff. I trust that Mr. Orth is here keeping an eye on the U.S. Treasury Department.

Mr. Washburn, we ask your professional judgment for the committee and for your colleagues. Are you collecting the tax pretty efficiently, and with as little fraud and evasion as is likely to be possible in a hugely decentralized system—what are there, 50,000 gasoline stations in the country, or 150,000? You could tell me either, and I would believe you.

Mr. WASHBURN. Senator, I can't tell you how many gas stations.

Senator MOYNIHAN. Are you satisfied?

Mr. **Washburn**. I think I would be remiss if I said we were satisfied.

Senator **Moynihan**. Well, you are never satisfied while you are losing a nickel. And you shouldn't be, professionally. But compared with your collection of other excise taxes, is this coming in well compared with income taxes, with corporate taxes?

Mr. **Washburn**. One of the problems we have is that we are not able to estimate what we think we are really missing out there.

Senator **Moynihan**. Wouldn't you have a pretty good idea of what was refined, and what was imported, and divide by gallons?

Mr. **Washburn**. It seems like we would, but we really are not able to track all of that movement and there have been attempts by the Office of Treasury Tax Analysis in the past to estimate the tax gap, and I don't believe they have done one since them.

Senator **Moynihan**. May I ask, have you done one?

Mr. **Iroff**. That's another area of Treasury. It's not Financial Management Service.

Senator **Moynihan**. Would you call them up one day and ask?

Mr. **Iroff**. I certainly will, sir.

Senator **Moynihan**. This committee would like to know when the last estimate was made.

Mr. **Washburn**. Although we don't have actual estimates of the tax gap, but we know there is a tax gap, and we do know by current investigations that are ongoing that there is a compliance problem. To relate that to compliance problems we have with the income tax or other areas of excise tax, I don't know that it is any worse or any better.

Senator **Moynihan**. Okay. But you would, in the course of activities, get a feel for that, it seems if you have a problem, you have problems everywhere, and they are not distinctive here.

Mr. **Washburn**. Correct.

Senator **Moynihan**. Occasionally, in the finance committee, every so often the Administration sends us a budget that says we are going to pick up $2.5 billion by better compliance. That's in every budget, sometimes it is $4 billion, which argues what?

Mr. **Washburn**. We are aware of those estimates, we are aware of the newspaper reports, but we can't validate them. Some of our people feel that some of those figures may be accurate, but others say they are conjecture.

Senator **Moynihan**. I would say that was very diplomatically stated. Whenever the Director of OMB needs money he just says "Improve IRS collections." No problem at all.

Mr. McCormick, would you like to say something?

Mr. **McCormick**. Mr. Chairman, if I could, I would just like to echo Mr. Washburn's comments in the sense that in the Federal Highway Administration, we look forward to continuing to work closely with them, and finding ways to strengthen the process. I would like to further make the point that we should not only assure a more adequate Federal gas tax collection, but also find ways that I think can enhance State gas collection along with that.

Senator **Moynihan**. Of course. I think we do see that kind of cross-border movement, where there are different levels.

Could I ask that somewhere in the Treasury we learn that the last time an effort was made to estimate how much gasoline is produced and imported? That shouldn't be too hard. We can divide it into gallons and multiply by nine, and see whether you get any comparable number. There are going to be some taxes. Let us know your professional advice as to whether you should update that.

Mr. IROFF. Yes, sir.

[The material requested follows:]

Question from Senator Moynihan.

Question: Could I ask that somewhere in the Treasury we learn that the last time an effort was made to estimate how much gasoline is produced and imported? That shouldn't be too hard. We can divide it into gallons and multiply by nine, and see whether you get any comparable number. There are going to be some taxes. Let us know your professional advice as to whether you should update that.

Answer: Data from three different government sources indicate that between 112 billion and 115 billion gallons of gasoline were consumed in the United States in 1989. (1) The Department of Energy, D.O.E., reports that a total of 112.3 billion gallons of gasoline were supplied in the United States in 1989. (2) The Internal Revenue Service tabulates the amount of gasoline tax liability but not the quantity of gasoline. Because tax is paid at various rates and because of taxpayer and processing delays and errors the quantity of gasoline on which the tax is assessed cannot be determined with certainty. Based on recent IRS tabulations, the amount of gasoline on which tax was assessed for 1989 is estimated at 112.5 billion gallons. The IRS reports exclude most gasoline supplied to state and local governments. Because state and local purchases of gasoline are included in the Department of Energy series, the DOE reported gasoline supply would be expected to be higher than the tax paid gallons implied by the IRS tax liability data. (3) Preliminary data from the Department of Transportation indicate that gasoline consumption in 1989 was about 114.6 billion gallons (including tax exempt gasoline). The quantity of gasoline implied by the IRS reported figures for 1989 is generally consistent with the D.O.T. figure adjusted for state and local gasoline.

Senator **Moynihan**. Ms. Moore, I want to be truthful and say how well you presented your case. But remember, that this member of this committee is not in the least impressed by rhetoric from this Administration and the previous Administration about wanting to balance the budget.

You don't want to balance the budget. If you wanted to, you would do it. What we do is consistently get these reports, we are sent budgets from the Administration which nobody even votes on, they are so embarrassing. Then about four months later, someone says "Yes, that's right, they were wrong." So we have to have a summit.

The budget deficit is not a problem, it is a policy. It is a policy that makes it possible to veto highway bills, cut back programs, say that we would like to do it, but can't afford to. It is a policy that was put into place in 1981. I won't explicitly go into that, you don't have to believe me. But that was a long time ago.

The people who did it even said that they did it. The Gramm-Rudman-Hollings bill has not reduced the deficit. What is the deficit, Ms. Moore?

Ms. **Moore**. In our January submission, we are looking at a deficit target for Gramm-Rudman in the neighborhood of $65 billion. I know that Director Darman has spoken recently——

Senator **Moynihan**. Well, there goes another $40 billion, woops, there goes another $20 billion—$75 billion from the Social Security Trust Fund.

Ms. **Moore**. So I think the discussions we have seen in the last few days——

Senator **Moynihan**. You are new to Government and you are welcome not to associate yourself with the lies of your predecessors.

I want to make one point. On the issue of the interest that accumulates. It would be the case, would it not, that if the Federal Government had not gotten this money as cash revenue, which it could use to spend, get a certificate of indebtedness, which is equivalent to a bond or a note, having given that certificate of indebtedness to the trust funds, then you have the cash. Then you go out and buy a battleship, or paper clips, or whatever you do.

Now if you didn't have the cash that came in from the trust fund, and you did want to buy that battleship or those paper clips, you would borrow money in the bond market, would you not?

Ms. **Moore**. Yes, sir.

Senator **Moynihan**. In consequence of which you would be paying interest to the bond holders, or the noteholders.

Ms. **Moore**. Yes, sir.

Senator **Moynihan**. So the trust funds, you refer to it as an intra-governmental transfer.

Ms. **Moore**. Yes, sir.

Senator **Moynihan**. But it is a transfer the Federal Government would have to transfer the money to the private owners of the public debt, if it did not have the trust fund resources?

Ms. **Moore**. That is a fair statement, which is to say that the intra-governmental transfer that I spoke about is indeed from one part of the Government to another. So if we wanted to outlay that to the public in some way, then we would have to borrow in order to do that. There would be two things going on. We would be borrowing from the public, and paying interest on that.

Senator MOYNIHAN. So there is a claim that the trust fund has on that interest. When you say that we have spent more than has come in——

Ms. MOORE. In tax receipts.

Senator MOYNIHAN. In tax receipts. But the interest is a legitimate revenue to that fund. Absent that, you would be paying it elsewhere.

Ms. MOORE. It is a legitimate part of that highway trust fund, yes. Again, if we spent that interest now, for example, on more highway spending, then the Government would indeed have to go to those private lenders once again and borrow that component, yes, sir.

Senator MOYNIHAN. I think we understand one another here. Let's keep it to highways. Avoid megasubjects until after the summit. Things will change many times before this is over. All right. We do have a proposition from the Administration that the trust funds ought not to be fully expended because we are in a deficit situation and they should contribute to deficit reduction. That's a perfectly legitimate position.

As long as it is open, and as long as we know what you are doing, just tell us what and why. It is very clear that when the Department of Transportation had its draft of Moving America, they said to increase the size of the highway program by spending down the balance of the highway trust fund, and OMB said no. That's okay. That's what OMB is for.

Ms. MOORE. The national transportation policy talks about spending transportation trust fund balances over time in a fiscally responsible way. In the case of the aviation trust fund, for example, where there is indeed a surplus, uncommitted balances, the Administration has a proposal on the table to bring that balance down over the five-year period of our reauthorization by more than 50 percent of what it is today.

With respect to this year's budget on the highway account, that reference to expenditures, we are proposing to spend more out of the highway account than we are collecting in 1991 in taxes. It is true that we are not fully spending the interest, we are however spending a portion of the interest as has been——

Senator MOYNIHAN. What portion?

Ms. MOORE. Almost a third.

Senator MOYNIHAN. A third. Why don't you send that to us as a nice little one-page report?

Ms. MOORE. Yes, sir.

Senator MOYNIHAN. We can say we are going to bring in X, we will have an accumulation of interest, Y, and we are going to spend one-third of Y. One-third of Y plus X equals——

Ms. MOORE. Will do.

[The material referred to follows:]

Outlays and income of the highway account of the highway trust fund under the President's fiscal yer 1991 budget proposal

[In billions of dollars]

Total outlays	14.032

Total tax receipts	13.768
Difference (i.e., outlays would be greater than tax receipt(	.264
Total interest earned in fiscal year 91	.920

Ratio of interest spent ($264 million) to interest Earned ($920 million) = 29%.
Outlays would equal tax receipts plus 29% of interest earned.

Senator MOYNIHAN. Thank you very much. I enjoyed the testimony. We have not had a hearing like this in decades. It is good to have you know we are here, and to have us know you are there. We thank you very much.

Now we are going to hear from the Governors' point of view in these matters. We have a panel of two authorities, Mr. Raymond Scheppach, who is the Executive Director of the National Governors' Association. Why don't you come forward, sir, and sit down.

We also have Mr. Garth Dull, who is the Director of the Nevada Department of Transportation.

All right, we are all settled, and Mr. Scheppach, we welcome you on behalf of the National Governors' Association.

STATEMENT OF RAYMOND C. SCHEPPACH, EXECUTIVE DIRECTOR, NATIONAL GOVERNORS' ASSOCIATION

Mr. SCHEPPACH. Thank you, Mr. Chairman. I appreciate the opportunity to come before you today to discuss the Governors' concerns about the Highway Trust Fund and the highway obligation ceiling.

Congress is once again facing the task of an unwieldy and uncooperative budget deficit. You have a difficult job ahead. At the same time, however, you are challenged to address what has become known as the "third deficit"—the deficiency of public investment in our people and our economic infrastructure.

Overcoming this deficit is necessary if we are to enhance national productivity and economic growth. Governors believe that investments in physical infrastructure, along with research and development and human resource development, will help increase both our competitiveness in a global economy and our long-term economic growth.

State and local governments continue to provide the overwhelming majority of support for transportation and have expanded their financial commitment substantially over the last decade. Indeed, state and local governments already provide 78 percent of all public funds spent on highways. We will not renege on our commitment to restoring and developing our nation's infrastructure and we ask that the federal government make a similar pledge.

As you know, the National Governors' Association is emphasizing what the Governors call Project 15, raising the annual highway obligation ceiling to $15 billion. Project 15 is NGA's top transportation priority this year and virtually every Governor supports this effort.

The immediate impact of a $15 billion obligation ceiling on the deficit is minimal, since it takes five to seven years to spend funds for a highway project. In fact, increasing the highway obligation ceiling to $15 billion would increase outlays during fiscal 1991 by only $390 million over the baseline, according to the Congressional Budget Office. Interest alone during that year is projected at $920 million, more than twice the level of the additional outlays the Governors propose.

An increase in the obligation ceiling does not require generating new funds. It allows the states to spend some of the $9 billion in carryover funds that have been withheld under obligation ceilings in previous years.

There are some who say that trust fund interest payments do not reflect additional receipts to the government, and that the interest is merely the federal government taking money from one ledger and putting it in another. Although such a unified budget approach is a useful fiscal and economic construct, it cannot and should not supersede the intent of Congress expressed in enacted law.

Senator MOYNIHAN. If I could interrupt, sir, you heard my exchange with Secretary Moore. That is an intra-government transfer, which if not made, would require public bonds.

Mr. SCHEPPACH. That's right. We would pay the Japanese if they held the debt.

When the highway trust fund was created in 1956, the statute provided that "the interest on, and the proceeds from the sale or redemption of, any obligation held in the trust fund shall be credited to and form a part of the trust fund." It is abundantly clear that interest payments reflect additional receipts to the trust fund, that they belong to the trust fund, that they should be spent on improving our nation's highways.

Several tough issues face the Congress this year in developing the federal budget and in reauthorizing surface transportation programs. A couple of the most controversial are whether to consider a federal gas tax increase, or whether to take the transportation trust funds out of the unified budget and exempt them from deficit reduction calculations of Gramm-Rudman-Hollings.

NGA does not have specific policy positions on these two issues at present. However, fuel taxes are such a traditional source of state revenue that any proposed increases in the federal tax have engendered considerable opposition by most Governors. NGA has opposed an increase in the federal tax for deficit reduction, but the issue of a gas tax increase for transportation programs has not recently been addressed. Governors might consider an increase in gas taxes as part of a concerted nationwide effort to address enormous unmet needs in highway improvements, but this would take a serious reassessment. Governors feel strongly that the first step is to make best of use of existing revenues that are already collected and available in the highway trust fund before considering new taxes.

Many organizations are focusing on taking the transportation trust funds off budget, along with the Social Security Trust Fund. NGA believes it is important that Congress take action to spend down the balance in the highway trust fund for needed improvements, but has not yet determined that taking the trust funds off budget is necessary to increasing obligation levels. On or off budget, states will not receive any increase in funding unless the obligation is raised.

Like you, Mr. Chairman, Governors have worked hard to develop a coordinated federal-state partnership in the highway program. Essentially, the Governors feel that they have given up a substantial state revenue source in trust for a valid national purpose. What they want in exchange is a stable, reliable, multi-year commitment so states can run the Federally-assisted state highway programs as efficiently as possible.

Thank you for the opportunity to testify. NGA looks forward to working closely with you in an important federal-state initiative—putting the trust back in the trust fund.

I will be pleased to respond to any questions.

Senator MOYNIHAN. We thank you, Mr. Scheppach.

Mr. Dull, good morning, sir. Welcome to the East.

STATEMENT OF GARTH F. DULL, DIRECTOR, NEVADA DEPARTMENT OF TRANSPORTATION

Mr. DULL. Good morning, Mr. Chairman. I would like to thank you for the opportunity to present our views on S. 2013 and the issues relating to the Highway Trust Fund.

I have submitted some written comments but I will briefly summarize those.

Senator MOYNIHAN. Don't be brief, you have waited all morning. And you have come a long way.

Mr. DULL. Thank you.

Senator MOYNIHAN. If you drove, you came a long way.

Mr. DULL. First, we strongly support S. 2013. Drawing down the Highway Trust Fund to minimum levels will substantially increase much-needed funding for our highway infrastructure without a tax increase. The economic vitality and international competitiveness of this Nation depends on our system of streets and highways.

We have been under-investing in transportation far too long. It is estimated by many organizations that we need a minimum of $40 billion a year just to address the very minimal needs that would add improvements to the systems, just to maintain the status quo.

Senator MOYNIHAN. Do you mean $40 billion all told?

Mr. DULL. Forty billion in Federal aid.

Senator MOYNIHAN. Forty billion Federal?

Mr. DULL. Yes, sir.

The State and local entities have been shouldering more and more of the transportation responsibilities, while the Federal program has decreased considerably. A strong Federal presence in transportation is necessary, we feel, to promote and protect the national highway system that we have developed. It is certainly one of the best programs. I don't think you can point to a better federally-funded program than the highway program.

It is the cornerstone that underpins and drives the national policies and standards and design and construction. It has promoted continuity between States, resulting in the reduction in accidents and fatality rates that we have seen over the last several years.

FHWA and others have estimated as recently as last February that the Highway Trust Fund could support a $20 billion a year Federal program for four years. After that, a gas tax or a user fee increase may be necessary.

From a State's perspective, and I can only give you Nevada's, Nevada has the highest gas tax in the Nation at 23 cents. That is subject to go to 28 cents very shortly. That will get us to first place, without a doubt.

We have $4.5 billion dollars in needs over the next ten years. That list itself is subject to grow. Under the best of circumstances we have a $2.5 billion shortfall.

In conclusion, I think it is difficult to ask motorists to contribute more, as long as there are uncommitted funds available in the Highway Trust Fund.

The Highway Trust Fund should be taken off budget, made permanent and released from the obligation limits. If an increase in user fees is necessary, it should begin at the Federal level. That keeps all the states in the relatively same position, and we certainly would adamantly oppose any increase for deficit reduction until the highway needs are met.

As I said, in Nevada we have a $250 million a year program, which is modest compared to what we are talking about here today. We don't keep a $100 million minimum balance to fund that program. We don't keep a $50 million minimum balance. We keep more like a $10 million or $15 million balance, about one-tenth or one-twentieth of what we are talking about in the Highway Trust Fund.

I would be happy to answer any questions you may have, Mr. Chairman.

Senator MOYNIHAN. I thank you. I am embarrassed to say I don't think you both were very emphatic and very clear. To you, sir, make no mistake, the trust funds are larger—as a budgetary device on instructions from the Office of Management and Budget. Whether right or wrong, the Department of Transportation wants to spend as much money as it can on highways. That's the nature of the Department of Transportation.

We came up in 1956, there was a meeting between members of the House and President Eisenhower, when they suggested how we were going to do this. The thought was that we would issue bonds. The members of the House, Speaker Wright, who was a young member on the public works committee, asked if we could impose a gasoline tax, and dedicate it, then pay for it as you build it. It worked brilliantly.

If there is anyone here who has studied public finance at the Maxwell School, you will learn that that was exactly the wrong way to do it. But it turned out to be exactly the right way to get it done.

But you, sir, on behalf of the Governors, are only asking for a very modest increase.

Mr. SCHEPPACH. This year it is closer to $12 billion, and I think the House proposes closer to $13.2 billion. I think you—the Senate Budget Committee—have done a preliminary markup in committee of $14 billion. We are asking for $15 billion, which essentially equals revenues plus interest.

Senator MOYNIHAN. Fifteen billion in 1991?

Mr. SCHEPPACH. Right. In the current budget development.

Senator MOYNIHAN. Where are we in the Budget Committee? Is it $14.032 billion? Is that what we have here? Is this the budget?

Mr. SCHEPPACH. Yes. The Senate Budget Committee mark I think is $14 billion.

Senator MOYNIHAN. I have an anonymous piece of paper here.

Mr. SCHEPPACH. What we are requesting for the ceiling is $15 billion, which is essentially equal to the revenues plus the interest.

Senator MOYNIHAN. I get you. That would not spend down any accumulation, but would simply——

Mr. SCHEPPACH. It would over time, but not this year.

Senator MOYNIHAN. That's pretty clear.

We are going to have an energy tax, I think. If we do, I think it ought to include, obviously, a gasoline tax. I guess it is my view that if you have a surplus in the budget, you ought to have an increase in the gasoline tax. We are putting too many automobiles into the system. The automobiles to some extent, I don't know what the production functions are, maybe you do, we never hear things like this in Transportation, they are not a very brainy place. They used to be.

But for every extra 10 cents in gasoline tax, how many fewer automobiles get bought? How many fewer miles get driven? There are functions, that's something economists do all the time. Do either of you know much about this?

Mr. SCHEPPACH. Those are elasticity functions.

Senator MOYNIHAN. Yes. I would have thought, that if I were living over not far from you, it seems to me in Southern California is organizing its entire public life around how to handle the problems created by too many automobiles. Is that about right?

Mr. SCHEPPACH. I think the measures show, Senator, that as you raise the price of gasoline, people will move into more fuel-efficient cars, but they tend to maintain the same number of average miles driven.

Senator MOYNIHAN. They drive the same amout?

Mr. SCHEPPACH. Yes. Most of the estimates indicate that they drive the same amount of miles in a more efficient automobile. That's what happened in 1973 and 1974.

Senator MOYNIHAN. It would be nice if we could learn something about this.

I do note this, and I think I am right, but again it is just so impressionistic, that when we began after the 1973 oil shock, we all started buying small Japanese automobiles, which were very fuel-efficient and we assume that they had small automobiles because they are a small country and they have to fit a lot of people in there.

Then at great expense, Detroit converted to making smaller automobiles. Then the price of gasoline dropped to half. Then I guess we started making and selling bigger automobiles than the Japanese. That was sort of a surprise to us. That suggests we are terminally incapable of figuring out how to make an automobile in this country.

But I don't know. You think that—if you could find anything out about that, the Committee would appreciate it.

Mr. SCHEPPACH. There are lots of data.

Senator MOYNIHAN. Does the elasticity go to the number of automobiles, or the number of miles, or the number of gallons?

Mr. SCHEPPACH. Under the normal ranges I think you are talking about—10 cents up to 50 cents a gallon, even under those ranges—

people do go into more efficient automobiles. You have got be talking about——

Senator MOYNIHAN. They don't use fewer cars, or fewer miles, but fewer gallons?

Mr. SCHEPPACH. That's right. You have to be talking about ranges of $1 to $2 a gallon.

Senator MOYNIHAN. There's less carbon monoxide right there, you get that. I don't want to lose Southern California. But it seems they are going to close it down and make everybody leave.

Mr. SCHEPPACH. I might suggest, also, Senator, that if you are going to seriously consider it, perhaps some combination of an oil import fee with a gasoline tax ought to be considered.

Senator MOYNIHAN. Well, it has to be that.

Mr. SCHEPPACH. That's right.

Senator MOYNIHAN. And we will call them user fees.

Again, thank you very much, and stay in touch, and you will have to give us your advice about if we do go to a significantly increased revenue—gasoline tax—is it to go into a trust fund or are we to break the relationship. It has been there since 1956.

Mr. DULL. Sir, I strongly believe that we ought to maintain the trust fund.

Senator MOYNIHAN. You want to maintain it?

Mr. DULL. That's right. And I certainly agree that gasoline is the best bargain it has ever been right now. There is certainly room to increase gasoline taxes or user fees, if you prefer. We like user fees. It's like paying for what you get.

Senator MOYNIHAN. Well, there are no such things as taxes in Washington anymore. It is all a fee, a figment, an adjustment—we will have a gasoline tax adjustment. That's it, that's good. Don't tell Darman.

Mr. SCHEPPACH. Let me also say, sir, that the Governors' position is also that if there were to be a gasoline tax, it should be dedicated to the trust fund.

Senator MOYNIHAN. We can do that two ways. Think about it, won't you? We can have it in the trust fund, and let the trust fund accumulate and not spend it. That's available then for deficit reduction. That's tapping Social Security.

Mr. SCHEPPACH. That's why our position is to spend down the trust fund now, and then look at the possibility of an increase later on.

Senator MOYNIHAN. Thank you very much. We appreciate both your testimonies.

And now our final panel. We are going to hear from the people who keep track of these things.

First of all, Mr. David Montgomery, good morning sir. Mr. Montgomery is the Assistant Director of the CBO. And we have Mr. John Hill, the Associate Director of the GAO, and Mr. Lester Lamm, who is the President of the Highway Users Federation. Good morning, Mr. Lamm.

Mr. Montgomery and Mr. Hill, I don't think we have had the pleasure of having you before the committee before. I welcome you, and I am sorry that the hearing has gone on so long. But the first hour was used up in exchanges by members, as you probably noticed.

I see someone has some charts over there, whoever that is, good morning. GAO. GAO is never without charts. We will start now, Mr. Montgomery, if you will proceed, sir.

STATEMENT OF DAVID MONTGOMERY, ASSISTANT DIRECTOR, NATURAL RESOURCES AND COMMERCE DIVISION, CONGRESSIONAL BUDGET OFFICE

Mr. Montgomery. Thank you, Mr. Chairman, it is a pleasure to be here. It is my first time to appear before the subcommittee, and I have enjoyed the morning.

I have submitted my statement for the record. I would like to use my time now to review briefly three topics.

Senator Moynihan. Take your time, you have been here all morning.

Mr. Montgomery. Thank you.

I will review the financial status of the Highway Trust Fund, the relationship between trust fund balances financing and the federal budget deficit, and some effects that the use of trust funds can have on budget priorities.

I fear that most of the things I will say have already been said this morning. Then again, the opposite of many of the things I will say has also been said.

Senator Moynihan. And keep in mind that you are on our side, so it carries more weight when you say it.

Mr. Montgomery. Thank you.

The Highway Trust Fund is essentially an accounting mechanism. It keeps track of revenues from fuel and other vehicle taxes earmarked for the fund, spending on designated mass transit and highway programs, and interest that accrues on its cash balances.

The trust fund comprises two accounts—one for highways, and the other for mass transit. In response to your request, I will focus on the highway account.

There is a table attached to my prepared statement that shows the financial position of the Highway Trust Fund. It highlights the balance in the highway account, which is now $10.6 billion and has hovered around $10 billion over the past decade.

Senator Moynihan. It really has not moved.

Mr. Montgomery. Right. It was accumulated largely in the 1970s, primarily because of a rapid increase in revenues compared with outlays in the mid-1970s.

I think it is attributable primarily to the natural lag between commitments and outlays on federal highway programs. The outlays just did not grow as fast as the revenues during the early 1970s. During the 1980s, outlays have exceeded tax revenues credited to the fund and have been roughly equal to the total fund receipts.

Under the CBO baseline projections, which are also shown in the table, the unexpended balance in the highway account would grow very slightly over the next five years, reaching $11.5 billion by the end of 1995.

Senator Moynihan. That's your table on page three? That is a very stable figure—in 1980 it was $11.0, in 1995 in constant dollars it is $11.5.

Actually it has diminished in terms of the portion of the budget? I would say doubled.

Mr. MONTGOMERY. Yes. CBO escalates the outlays from the program under our baseline assumptions at the rate of inflation, but we do not project receipts.

Given this rough balance between tax receipts and outlays over the last decade and over the projection period, it is hard for me to see where—as soon people conclude—we are "hoarding" tax revenues in any sense, currently.

As to the meaning of the unexpended balance, its size does not indicate whether the fund could sustain additional spending. At the beginning of fiscal year 1990, unpaid commitments for highway programs totaled about $32 billion, compared with this unexpended balance of $10.6 billion.

So, considerably more than the current balance has been committed to future outlays. The Byrd Amendment has been mentioned already. It limits the amount by which unpaid commitments exceed the cash balance, which is referred to as unfunded authorizations.

Given our baseline projection, CBO expects receipts in fiscal years 1991 and 1992 to exceed the unfunded authorizations at the end of the current year by about $8 billion. This amount indicates the approximate level of additional spending that could be sustained by the highway account without violating the Byrd Amendment.

Additional spending of about $9 billion over three years we estimate would be authorized by Senator Bryan's bill (S. 2013). That level of unfunded authorizations would trigger the Byrd Amendment in 1993, based on CBO's preliminary assessment.

I will now turn to the effects of trust funds.

Senator MOYNIHAN. We note that Senator Bryan said any amendment that would incorporate the Byrd Amendment would be acceptable to him.

Mr. MONTGOMERY. Let me turn to the effects of trust fund financing on the federal budget deficit. Deficit is determined by the difference between the flow of total receipts from all sources into the Treasury and total outlays for all purposes from the Treasury. Interest credited to the account, according to the accounting practice that was stated by the Assistant Secretary of Transportation, is an intra-governmental transfer and it does not affect the deficit. It is deficit neutral, just rearranging the chairs within the room. If, in any given year fiscal year, outlays from the Highway Trust Fund are increased while revenues are not, the federal deficit will increase.

Senator MOYNIHAN. Given the fact that there is a deficit, and no increase in revenues.

Mr. MONTGOMERY. Right. So drawing down the trust fund balance would entail spending more from the fund than it receives in tax revenues and interest. It would also entail spending more than is projected in the CBO baseline. By both of those measures, drawing down the trust fund would increase the budget deficit unless other programs were cut or tax revenues were increased.

Some people have suggested—we heard discussion today—taking the trust fund off-budget or removing its receipts and outlays from the Gramm-Rudman-Hollings deficit reduction targets and calculations. It is CBO's point of view that the purpose of the unified federal budget is to show total receipts and total outlays encompassing the full range of federal activities. One of its most important uses is to indicate the effects of government activities on the economy and on the Treasury's cash borrowing needs.

Taking this kind of trust fund out of the unified budget would not change the amount of borrowing undertaken by the U.S. government, but it would make the amount of that borrowing less apparent. Thereby, it would weaken the usefulness of the federal budget deficit for measuring the impact of federal policies on the economy.

We have found those uses of the federal budget deficit to be useful.

Senator MOYNIHAN. There is a lot of discussion about taking it off budget. Nothing is off budget. Treasury gets the money.

Mr. MONTGOMERY. Yes. We put it into a different category of the budget. Treasury still needs to borrow the same amount of money, whether we call this trust fund on-budget or off-budget.

Senator MOYNIHAN. If you subtract this from the budget, and you subtract Social Security from the budget, then the borrowing appears as a larger percentage of the budget. The same amount of borrowing takes place. It appears that you are borrowing a larger portion of your budget, because your budget base shrunk. That is your bookkeeping.

Mr. MONTGOMERY. Yes, the gross flows in and out. In the case of the Highway Trust Fund, the flow into the budget and the flow out of the budget are approximately the same. Therefore, we would reduce federal outlays—if we took the trust fund all off-budget—by approximately $14 billion, and we reduce revenues by approximately $14 billion.

Senator MOYNIHAN. In this case, because there is not that much of a balance.

Mr. MONTGOMERY. Right. Then we have to decide what to do about the interest, because we could create problems.

Senator MOYNIHAN. I have no enthusiasm for taking things off budget. As long as the Treasury has the money, it is spent, and why pretend otherwise.

Mr. MONTGOMERY. That is what our point is. The federal government is going to be borrowing somewhere, somehow, the same amount of money, no matter how we account for these transactions. That has effects on the economy, which are what we worry about in terms of fiscal policy.

I would like to mention some of the effects that the use of the trust funds may have on budget priorities. The existence of the Highway Trust Fund has tended to focus public attention, as it did today, on the unexpended balances. Perhaps that focus shortchanges any discussion of the relative merits and funding levels of the highways versus alterative transportation or other spending programs.

This is unfortunate because we hope that funding decisions are based on how much a program will contribute to the nation's future well-being, not on calculations of the past balances of taxes and spending or the amount of funds left over in some account.

For example, information from the Federal Highway Administration indicates that investments in maintaining and relieving congestion on the interstate highways, especially in urban portions, have very high returns. They would rank high relative to alternative programs competing for federal dollars under virtually any calculation. Such investments ought to be made whether there is a balance in the Highway Trust Fund or not.

But things might change in the future—in particular, if tax rates were changed for reasons other than changes in the desired level of highway spending. This was in my prepared statement. I did not know it would be such a large topic of discussion today.

If additional taxes on fuels were enacted for energy or environmental purposes and the revenues were earmarked for highway spending, the result could be to build up balances in the Highway Trust Fund that might be larger than the amounts needed to fund highway investments with returns comparable with other spending opportunities.

There is no fundamental connection between the amount of money that is raised from a particular tax, especially when it has other purposes such as environmental, and the amount to be spent on a particular investment.

Senator MOYNIHAN. The record is very clear that this tax was put in place to build the interstate highway system.

Mr. MONTGOMERY. Yes.

Senator MOYNIHAN. It is also clear that it was thought that we were building a system that connected cities from long distances. What we were really doing was smashing up the cities. We pretty well wrecked half the cities in this country with the interstate highway system. We did not know how to build a five or six lane highway through a downtown area. It was ruinous.

This was a specific project that was put in place. What you are saying is too obvious to bear repeating, that if just because it goes into a highway trust fund does not mean it has to be spent on highways, if in fact you increase it very considerably beyond your present outlays.

Mr. MONTGOMERY. Precisely.

Let me just summarize the points that are covered here. The Highway Trust Fund is an accounting device. It tracks certain revenues, spending, and transfers of interest payments within the federal budget. Income and outgoes from the funds have been roughly in balance in the last decade, and probably will continue to be in our baseline.

The balance in the highway account largely reflects lags between commitments and outlays for highway programs. I do not think it shows that dedicated tax revenues are being hoarded to reduce the deficit.

Senator MOYNIHAN. You don't?

Mr. MONTGOMERY. Not in the last decade.

Senator MOYNIHAN. Well, we asked you for your professional opinion.

Mr. MONTGOMERY. Unfortunately, this so-called cash balance does not offer an opportunity to increase spending without also increasing the deficit.

Senator Moynihan. There can be no increase in spending without a corresponding deficit increase. Where is that word "hoarding" in your testimony?

Mr. Montgomery. Actually, it is on page 6 of my testimony, in quotes as a conclusion by others.

Senator Moynihan. I didn't see it.

All right, thank you, Mr. Montgomery. And now, Mr. Hill.

STATEMENT OF JOHN W. HILL, JR., ASSOCIATE DIRECTOR, TRANSPORTATION ISSUES, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY LEILA KAHN

Mr. Hill. Mr. Chairman, I am pleased to have the opportunity to testify on the operations and outlook for the Highway Trust Fund.

As your committee examines how best to use the revenues credited to the trust fund, items warranting attention include the unexpended balance as well as trust fund revenues that could be made available to meet our increasing surface transportation needs.

We believe that a one-time increase in authorizations of $3.4 billion for the highway account is possible while still retaining a safety cushion of $3 billion in the fund to provide for unforeseen disruptions.

Senator Moynihan. Hold it right where you are. That's on page one.

One-time increase in authorizations of $3.4 billion. All right, sir.

Mr. Hill. And that would still leave a safety cushion of $3 billion in the fund to provide for unforeseen disruptions in highway taxes or inaccurate revenue projections. In addition, to prevent future buildups in the balance of the highway account, obligation ceilings should more closely approximate expected income, including interest, to the trust fund.

The mass transit balance at the end of fiscal year 1991 is expected to be $7.8 billion. However, about $4 billion of this balance is committed to prior year obligations that have not been liquidated. The remaining MTA balance consists of $3.8 billion in potential future obligations.

Unfortunately, the severity of the general fund deficit has made the concept underlying trust funds—that revenues be spent for their intended purpose—quite different in reality. Various trust fund balances are used to mask the deficit.

In the current budget environment, the reality is that any accelerated drawdown of the Highway Trust Fund balance can be accomplished only by increasing the deficit, or at the expense of other Federal programs.

In the first twelve years of its existence, the trust fund balance remained at $1 billion or less. As the first chart indicates, after a rapid growth in the 1970s, the balance peaked at $12.6 billion in 1979. Through fiscal years 1989, the trust fund has accumulated revenues, including interest, totalling $219.6 billion, and has made available $209 billion to the states.

Senator Moynihan. If I could interject, Mr. Hill, this is a pretty critical point. When I look at your chart, I see what I think I heard Mr. Montgomery say, that you don't see any hoarding.

Mr. HILL. No, the accumulation of the trust fund balance occurred in the 1970s, when trust fund revenues exceeded trust fund expenditures by over $10 billion.

Senator MOYNIHAN. No, you don't. They had a higher balance in 1979 than they have today, right? Or it has been flat.

Mr. HILL. Right, the trust fund balance has remained relatively flat since 1979.

Senator MOYNIHAN. If that is so, and it is your professional judgment that it is so, and Mr. Montgomery's, then we have established something here that has been very much at issue. People have argued contrarily.

Mr. HILL. Yes.

The current trust fund balance is $10.6 billion, with projections estimating a 1991 trust fund balance of $11.6 billion. The effect of trust fund revenues and expenditures on the trust fund balance is illustrated in the next chart. By the way, these charts are also included in the testimony.

Senator MOYNIHAN. We have them, and they will be in our printed record. We thank you very much.

Mr. HILL. The dashed line represents income to the trust fund. From 1983 to 1989, income to the fund has generally increased. The heavy line indicates expenditures from the trust fund, which were at times greater than, equal to, and even less than income that was generated. The thinner line shows the trust fund balance which is the excess of trust fund income over expenditures.

Since the beginning of the trust fund in 1956, the interest earned has totaled $14.7 billion through 1989. In recent years, interest earned has ranged from $800 million to $1.1 billion per year.

We see no distinction in revenue credited for user receipts and revenues credited as interest income in terms of the amounts to be made available to the trust fund balance.

Senator MOYNIHAN. Do you think that the interest income is legitimately part of the trust fund, and that if you would think of the trust fund, as I believe you would, this money is taken from motorists or whatever, and put in a pot that we spend on highways, and the money generates interest, and that is part of the anticipated contribution?

Mr. HILL. That's right.

Senator MOYNIHAN. Ultimately, the Government would have to go out and pay the interest elsewhere.

Mr. HILL. It was interesting that the representative from the Department of Transportation made the distinction between the user fee taxes that were being received into the fund. You might want to look at the interest as a user fee that the Federal Government must pay for the use of the monies.

Senator MOYNIHAN. Nicely put. Don't tell Secretary Martin. But you don't work for Secretary Martin. She would tell you that she was doing her duty.

Mr. HILL. The Highway Trust Fund balance exists in large part because of funds that are not obligated for highway projects. The primary reason is the existence of Congressionally established obligation ceilings which constrain the Federal funds available for states to spend on highway projects. As indicated in the next chart, this accounted for approximately $8 billion of the $9 billion in unobligated highway funds for fiscal year 1989.

Another explanation for the trust fund balance is that states did not obligate approximately $1 billion in available funds exempt from obligation ceilings.

The authorization of the Federal highway funds is not a guarantee that those funds will be available for states to use in a given year. In the late 1960s, the Administration instituted impoundments, which temporarily forced the states to delay obligations. About a decade later, those impoundments were replaced by Congressionally set obligation ceilings. The effect was the same. They both restricted states from obligating the total amounts that were available to them.

Senator MOYNIHAN. And yet as I look at it, there has not been any very large amount of hoarding. It has been about $1 billion or $2 billion a year here or there.

Mr. HILL. It accumulates over time.

Senator MOYNIHAN. Yes.

Mr. HILL. Furthermore, the funds that are restricted from obligation in one year carry over to the next year, and that's why it increases over time. Although these obligated funds could be made available in addition to new authorizations in the next year, newly imposed obligation ceilings restrict states from spending these funds.

The next chart shows that the margin between funds which states may obligate as defined by the ceiling, and the funds which could be available for state spending continues to widen.

States' annual requests for additional obligation authority and states' use of advance construction procedures, which enable them to start projects without obligating Federal funds, indicates their ability to provide the matching funds needed to utilize additional obligational authority.

A redistribution of obligation authority occurs after August, at which time obligational authority released by some states is given to states that are requesting additional authority. For fiscal year 1987 through 1989, states requested between $2.4 billion and $2.8 billion in additional obligation authority. Although only approximately $800 million was actually available for redistribution.

Since 1987, the advance construction balance ranged from between $2 billion and $2.6 billion.

The Congress also authorizes highway funds which it exempts from obligation ceilings. The most significant exemption from obligation ceilings in dollar terms are the minimum allocation program and demonstration projects.

The next chart shows that although states are free to use all of these funds, the unused amount has grown from about $200 million in fiscal year 1983 to the fiscal year 1989 level of approximately $1 billion. The bulk of the $1 billion is composed of minimum allocation funds, which according to transportation officials are held by states as protection against uneven flows of Federal funds. The reason for that is that these funds can be used for most federal-aid highway programs.

Senator MOYNIHAN. That is a claim that the States have on the fund, and it is a check that they can write?

Mr. HILL. Exactly.

A common belief is that the trust fund balance represents a surplus. This view, however, is not accurate, since the balance plus projected future revenues will be needed to cover commitments.

When Congress established the trust fund, it also established a safety mechanism to assure that sufficient funds would be available to liquidate commitments at the end of each fiscal year. The Byrd Amendment permits the total projected commitments at the end of each fiscal year to exceed the trust fund balance, so long as income projected for the following two years is sufficient to cover the difference.

In a May, 1989 report to the Senate Appropriations Committee, we pointed out that the trust fund could support a higher level of program activity, because future total revenues over the fund's authorized life are expected to exceed the level of future authorized commitments by about $7.4 billion.

Federal transportation officials believe, however, that a safety cushion of between $1 billion and $3 billion would be necessary to guard against unforeseen disruptions to highway taxes and inaccurate revenue projections. Further, since the time of our review, there was a $1 billion in emergency relief funds which was authorized because of the highway and bridge damage caused by the October, 1989 earthquake in California.

Assuming a conservative safety cushion of $3 billion, and taking into account the $1 billion that was authorized for the earthquake, the trust fund could support a one-time increase of $3.4 billion to authorizations. This would be in addition to spending the $8 billion currently restricted by the spending limitations.

Finally, we would like to say that to prevent any additional buildups in the trust fund that obligation ceilings should more closely approximate the anticipated income.

Senator MOYNIHAN. Thank you very much, Mr. Hill.

Could I ask the name of your colleague, so we can put it into the record?

Mr. HILL. This is Leila Kahn.

Senator MOYNIHAN. Thank you, Ms. Kahn, for your very deft handling of those charts. We find charts easier to comprehend than tables.

Now, Mr. Lamm of the Highway Users Federation will be our concluding witness.

STATEMENT OF LESTER P. LAMM, PRESIDENT, HIGHWAY USERS FEDERATION

Mr. LAMM. Thank you, Mr. Chairman. Congratulations to the subcommittee for these hearings. They are very important and timely hearings on a subject which may seem arcane to some, but a very vital topic to anyone with an interest in the highway program.

In talking with your staff prior to the hearings, your staff suggested that since I have been involved in administering the Highway Trust Fund for many years, I began with the old Bureau of Public Roads in 1955, that my testimony would go into a little background on how the program operates. I have tried do to that, and I will not repeat it in my oral testimony this morning.

Let me say, though, that the process of administering the Federal Highway Trust Fund has become very complicated, largely because so many different committees in Congress are involved—three separate authorizing committees in the Senate, budget committees, appropriations committees, and so on.

It seems to us that each consecutive Federal Aid Highway Act has made the trust fund a little bit more complex, adding programs, adding accounts, adding controls, to the point that now Federal Highway Administration has very nearly 600 separate fiscal accounts to administer. That adds greatly to the complexity of the overall highway program. Our hope is that when the committee deals with the reauthorization process over the next 15 or 16 months, we will find some way to simplify the process to some degree.

Senator MOYNIHAN. My hope is that you will give us some thoughts on that.

Mr. LAMM. We will have some suggestions.

Senator MOYNIHAN. I had no idea we had over 600 accounts. That may be too many, and may be not enough.

Mr. LAMM. It is complicating the fiscal process in Federal Highway Administration. Yet in principle, the financing process to us remains sound. For the past four years, I have been representing primarily the people around the United States who pay the highway taxes. I represent the people who pay the user fees under whatever name they are called into the Highway Trust Fund.

Again, it is our hope that in 1991, the committee will not try to completely redirect the financing process for the Federal Aid Highway program, but perhaps retool and refocus to take care of the priorities which have accumulated in the past 35 years.

There are, however, some problems. My testimony does go into them, and I will highlight them very briefly.

Senator MOYNIHAN. You go right ahead.

Mr. LAMM. From the vantage point of the user taxpayer—the first and most overriding problem was the subject of the hearing this morning. That is that not all taxes are being used in a timely fashion. The Department of Transportation's national transportation policy, as you pointed out this morning, supports and proposes to expand the concept of user financing into other transportation programs.

I worry, because I believe the entire concept of user financing is jeopardized when the current process does not use taxes collected in a timely fashion.

I am also concerned about so many people within the Administration arguing that interest, as an element of that income, should be treated differently from normal taxes.

Our reaction to S. 2013 and the Symms Bill, which I have just read very briefly over the past day, is that the principle would be supported by the Highway User Federation members. We would like to work with the committee on details. Perhaps the approach is not necessarily the most efficient one. For one thing, I don't really see a need to add new authorizations to the highway program while we have the current balance of unobligated funds. I would like to continue working with the committee on this approach. I greatly appreciate the approach underlying both S. 2013 and the Symms Bill.

To me, the overriding question on this issue is what is the minimum balance, the maximum minimum, really, required for fiscal stability in the Highway Trust Fund. That number should be somewhere in the range of $2 billion to $3 billion balance, not $10 billion or $17 billion.

Incidentally, in my testimony we focus on $17 billion, because our members pay the taxes into both the highway and transit accounts of the trust fund, and we worry about the accumulation in both accounts.

The second problem is one that you have raised this morning, with a previous witness. We are concerned about the apparent extent of evasion of tax payments around the country. In your own state, Mr. Chairman, over the last few years there have been court cases which have appeared to uncover large-scale evasions of Federal and state highway user tax payments. If this is the case around the country, we would hope that the IRS and Federal Highway Administration would rapidly step up their attempts to investigate and audit the collection processes.

The third problem is the level of exemptions. There are a number of exemptions. The largest is the gasohol exemption which now is hitting around $500 million per year. With some of the provisions being talked about in the various Clean Air Acts that are being debated this year, that exemption level could go up over $1 billion, perhaps as high as $2 billion. That makes the highway balance sheet just a little tougher to meet.

The final problem I want to mention, as you have highlighted already in your coverage of previous witnesses, is the unknown impact on the horizon if a potential budget summit or other activities in Washington allow or permit or develop a large-scale fuel tax increase for other than transportation purposes. I would point out that the problem I see with the gas tax as a budget device or as any general fund revenue source is that it falls inequally, inefficiently, across the U.S. economy.

What elements are penalized include the motor vehicle, industry, which really doesn't need much help in getting sick these days, the trucking industry, which is penalized relative to other modes of transportation, and tourism—more than 80 percent of American tourists get where they are going by automobile, and these are the most discretionary of automobile trips.

If fuel prices go up considerably, and the price elasticity of demand does come into play, it is probably the tourist trips that will be the first to go.

The highway construction industry, rural interests, and western States and State departments of transportation who depend on that revenue source for their own financing—these impacts tell me that if we do need additional revenue, I would hope we can find a more equitable way to find revenue that would impact on a more reasonable basis across the entire U.S. economy.

Senator **Moynihan**. I see the Highway Users Federation proposes a six percent increase in income tax.

Mr. LAMM. The Highway Users Federation has not taken a position on that, Mr. Chairman. Our position is, as you have heard from other witnesses, don't even come asking for tax increases until you use our current taxes in a more timely fashion.

My final point is that in the next 15 to 16 months, through the next reauthorization period, this is going to be the most significant time for the long-term Federal Aid Highway Program since 1955 and 1956. We urge early committee and Congressional action on a good reauthorization bill. Our members and staff are more than willing to continue to work very closely with the committee as this process progresses.

Senator MOYNIHAN. You always have, and we look forward to doing so. I think one point that we have established here this morning—I look to the other members as we look at it—but the interest income to this fund is legitimately part of the outlays of the Fund. Mr. Hill says it is a user fee for the Government.

I wonder if I could ask the GAO and the CBO to give us a formal submission of this kind. Don't run back and do it this afternoon, but I think since this issue has arisen, I think we ought to put it into legislation.

Mr. HILL. One thing I do want to point out, and we did find when we were looking at the legislation, is that if the fund were to run a deficit, the fund would be charged interest, which would be collected from user fees in the future. So it is to go both ways.

Senator MOYNIHAN. That's a nice little detail. Would it be all right to ask if the committee could have a formal, professional statement of your judgment here? It seems to be quite clear that at least in the situation where we are in deficit generally, that if the Federal Government did not have this money which it could borrow, it would have to borrow outside the system, and pay interests outside the system.

[Mr. Hill and Mr. Montgomery furnished the following:]

The Highway Trust Fund is defined as consisting of the amounts appropriated from certain taxes and interest earned on the excess funds collected. (26 U.S.C. §§ 9503(a) and 9602(b)). Thus, interest earned becomes part of the Fund. Our research indicates that the provision requiring interest on advance payments appropriated for the trust fund was repealed by the Surface Transportation Assistance Act of 1982, Pub. L. No. 97-424, § 531(b), 96 Stat. 2191 (1982).

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

June 20, 1990

Honorable Daniel P. Moynihan
Chairman
Subcommittee on Water Resources, Transportation,
and Infrastructure
Committee on Environment and Public Works
United State Senate
Washington, D.C. 20510-6175

Dear Mr. Chairman:

At the May 9 hearing of the Subcommittee on Water Resources, Transportation, and Infrastructure, you asked the Congressional Budget Office to provide its professional judgment as to whether interest accruing on the Highway Trust Fund's cash balance should be credited to the trust fund, as the law currently provides.

All of the largest trust funds have interest credited on their balances, while many small trust funds do not. At the end of fiscal year 1989, interest-earning trust funds contained more than 98 percent of all trust fund balances.

The government has never explicitly enunciated a reason for crediting interest to some trust funds and not to others. An examination of the current practice, however, suggests that a certain budgetary norm may underlie the current pattern. Generally, interest has not been credited to trust funds when the fund balances are essentially transactional (that is, when the money flows through the fund so rapidly that the balances are small), or where the fund performs a voluntary contractual service, such as the U.S. Department of Agriculture's Cooperative Work Trust Fund.

Trust fund balances usually have been credited with interest when the trust fund has a dedicated source of financing and when the balances are likely to be large because of a time lag between collections and expenditures. In such instances, it can be argued that there exists an unstated compact in which businesses and individuals agree to pay specific taxes in return for spending of a designated type. Because the tax collections and spending do not occur simultaneously, cash balances build up, and interest payments reflect the time value of this money. The Highway Trust Fund is an example of this situation.

The fact that the Highway Trust Fund receives interest is not relevant in making policy decisions about the level of federal spending on highways. Neither is the amount of earmarked receipts flowing to the fund from motor fuels and other taxes related to highway use. The earmarking process is an arbitrary one, as exemplified by the allocation to the mass transit account of one cent per gallon of the motor fuel taxes. Decisions about highway spending would best be made by comparing the potential contributions to the nation's well-being of all programs competing for federal dollars, and not on the basis of the amount of money accruing to the Highway Trust Fund either from tax revenues or from interest.

Thus, while crediting interest to the Highway Trust Fund is consistent with the treatment of other similar trust funds, the use of the trust fund mechanism, including the crediting of interest, is not an economically sound way to determine the appropriate spending and taxing levels for highways or other alternatives. Any reexamination of current policies would best be conducted in the broader context of the role of the Highway Trust Fund itself.

Finally, I would note that these comments relate specifically to the Highway Trust Fund. Although some of the same issues arise in regard to other trust funds, each has unique characteristics that make it difficult to generalize. I hope this information is helpful to you.

Sincerely,

Robert D. Reischauer
Director

cc: Honorable Steve Symms
Ranking Minority Member

Mr. **Montgomery**. There is one additional interesting point I would like to add on that. As we were preparing for this hearing, Marge Miller, our budget analysts, discovered that since about 1957, about $3 billion of general funds have been spent on highways outside the highway trust fund. Although as accounting goes it has been perfectly straightforward and what it has done is correct the Highway Trust Fund that has accumulated this balance.

If that $3 billion had been spent for earmarked taxes, rather than the general fund, given the miracles of compound interest, we would not see the current unexpended balance.

Mr. **Lamm**. On that point, Mr. Chairman, one thing the committee might want to look at is how those $3 billion were used. In my recollection, they went for items which were not normally at the time eligible expenses for highway trust fund accounts. They were highways on Federal lands, for projects involving trucking prior to the time the committee incorporated it within the trust fund, and so on.

Senator **Moynihan**. Let the record show that Lester Lamm was present at the creation on these things.

I would like to thank you very much gentlemen. I want to particularly welcome Mr. Hill and Mr. Montgomery to the committee. This will not be your last appearance. We are going to have to do, as Mr. Lamm said, a very—I hope we might do a piece of serious legislating. As I said on the floor in the debate over the Surface Transportation Act of 1987, this bill brings to a close the interstate highway program. There will be snippets of urban highways under court disputes here and there, but the highway program is built.

Now what do we do? We could just on widening it, but I don't think that's very wise. We could move some of the loads. That may be possible.

We could think about a subject that is not unprecedented.

We thank you very much, and we look forward to those remarks or statements—just the professional opinion of the GAO and CBO.

Mr. Lamm, we thank you.

I would like to say in closing that I do think it will be in order for this subcommittee or the environmental subcommittee to hold a hearing on the use of gasohol, that while diminishing some pollutants, actually increases the emission of hydrocarbons and nitrous oxides, which are the precursors of acid rain. If we are going to increase acid rain, I don't think we should do so in the same bill that says we are going to decrease rain. We will see how that can be arranged.

I have Mr. Jeffords' statement to be included in the record.

[The statement referred to follows:]

STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Thank you, Mr. Chairman, for calling this hearing today.

Our transportation infrastructure needs become greater each year that we don't spend enough money to keep up with the deterioration of highways, airports, bridges, and tunnels. Gridlock in our cities gets worse as we underfund urban mass transit programs. We pay a penalty in lost productivity and dirty air. Rural transportation problems mount because of a lack of resources and a failure to develop innovative, national links between rural areas and commercial centers. Our airports, which have been a drastic increase in use, have not had the benefit of the funds to manage the squeeze on capacity.

Meanwhile, there seem to be several billions of dollars in the Highway and Aviation trust funds that remain unspent each year. Annual accumulated interest to the funds compounds this surplus. It is sometimes hard for me to explain to my constituents the extent and complexities of the trust fund surpluses, so I appreciate the opportunity to gain some additional insight from the well-qualified panelists that are assembled today.

Mr. Chairman, I commend you for your unerring insight regarding the timing of today's hearing. We're enjoying a slight hiatus in the clean air debate—an issue that has highlighted the problems associated with transportation of people and products. We're in the breach between budget talks and appropriation action, with much of the talk within the beltway centered on the T word. And, we're laying some groundwork for debate on reauthorization of the Highway Act. Now that the interstate system is virtually complete, a review of the federal priorities is in order.

Mr. Chairman, in Vermont this time of year (as well as in New York, Idaho and most other states) farmers are anxious to plant the crops that will carry them through the next winter. But the farmer doesn't go about this task casually—inventories must be taken; supplies ordered and machinery greased; fences mended and help hired. Most farmers I know take a long look at the weather forecasts as well.

Today's hearing is an opportunity for this committee to analyze the status, mechanics and purposes of the highway trust fund. To me, the highway trust fund is comprised of dedicated user fees that should continue to be dedicated to meeting our transportation needs. Today we have a chance to settle some of the outstanding disagreements on the state of the funds, in order to be better prepared to weather the competing demands upon it.

Senator MOYNIHAN. Thank you, gentlemen, and thank you all.

This hearing is adjourned.

[Whereupon, at 12:38 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Statements submitted for the record and the bill, S. 2013, follow:]

THE HONORABLE BOB McEWEN
WATER RESOURCES, TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE
HIGHWAY TRUST FUNDS
PREPARED REMARKS
MAY 9, 1990

THANK YOU, MR. CHAIRMAN.

THIS MORNING I WOULD LIKE TO DISCUSS THE BUDGETARY TREATMENT OF THE TRUST FUNDS AND THE WAYS IN WHICH THE BUDGET PROCESS HAS AFFECTED THE EXPENDITURE OF RECEIPTS COLLECTED FOR HIGHWAY SPENDING.

WHEN I FIRST CAME TO CONGRESS IN 1980 AND I WAS ASSIGNED TO THE HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE, I WAS IMMEDIATELY DRAWN INTO THE DEBATES AND WORK ON THE HIGHWAY REAUTHORIZATION BILL FOR 1982. I REMEMBER A GREAT DEAL OF DISCUSSION OVER THE CRITICAL INFRASTRUCTURE NEEDS WE WERE FACING AT THE TIME, THE NECESSITY OF INCREASED CAPITAL INVESTMENT TO RETAIN COMPETITIVENESS, AND THE PROSPECT OF INCREASING THE GAS TAX IN ORDER TO FUND THESE GREAT NEW PROGRAMS AND FULFILL PROMISES OF AN EXPANDED TRANSPORTATION SYSTEM.

SO, IN 1982 THAT IS EXACTLY WHAT WE DID -- WE RAISED THE GAS TAX FROM 4 CENTS PER GALLON TO 9 CENTS PER GALLON IN ORDER TO FUND ALL OF THESE NECESSARY PROJECTS AND INVESTMENTS. AND WE GUARANTEED THE HIGHWAY USER THAT IF THEY WOULD PAY THIS HIGHER TAX, WE WOULD DELIVER ON THIS PROMISE OF AN EXPANDED AND IMPROVED TRANSPORTATION NETWORK.

IN 1982 THE CASH BALANCE IN THE HIGHWAY TRUST FUND WAS JUST OVER $9 BILLION. TODAY THE CASH BALANCE IS OVER $17 BILLION. OBVIOUSLY, SOMETHING WENT WRONG SOMEWHERE.

THE 1982 HIGHWAY BILL WAS CRAFTED TO BOTH SPEND THE MONEY IN THE BANK AND SPEND THE INCREASED REVENUES, KEEPING ENOUGH IN THE ACCOUNT TO COVER UNFORESEEN FLUCTUATIONS IN GAS TAX RECEIPTS. THE BILL PROVIDED AUTHORIZATION LEVELS WHICH PARALELLED EXPECTED RECEIPTS. BUT THE END RESULT HAS ONLY BEEN MORE MONEY IN THE TRUST FUND INSTEAD OF MORE SPENDING ON HIGHWAYS. WORSE YET, ALL ESTIMATES ANTICIPATE THIS BALANCE GROWING EVEN LARGER NEXT YEAR!

I KNOW THAT THERE ARE CURRENTLY ABOUT $22 BILLION IN OUTSTANDING OBLIGATIONS AGAINST THE CASH BALANCE IN THE TRUST FUND. HOWEVER, I ALSO KNOW THAT THE CLAIMS ON THE $22 BILLION IN OUTSTANDING CONTRACTS, OR THE ACTUAL BILLS, WILL COME IN OVER A PERIOD OF YEARS, YEARS WHEN WE WILL BE COLLECTING ADDITIONAL REVENUE TO PAY THESE COMMITMENTS. AND THIS IS HOW THE PROGRAM WAS DESIGNED TO WORK -- WE COLLECT THE MONEY SO IT IS AVAILABLE WHEN THE BILLS COME DUE. WE DON'T NEED THE CASH ON HAND TODAY TO PAY BILLS OF TOMORROW, AS LONG AS WE MAKE PRUDENT FORECASTS AND PRUDENT OBLIGATIONS.

TO ENSURE THAT THESE FUTURE COMMITMENTS DO NOT EXCEED FUTURE REVENUES, THE TRUST FUND IS OPERATING UNDER THE "DEFICIT PROOF" BYRD AMENDMENT -- IN OTHER WORDS, WE MUST BE ABLE TO GUARANTEE THAT

OBLIGATIONS MADE IN ANY ONE YEAR CAN BE PAID FOR BY RECEIPTS COLLECTED WITHIN THE NEXT TWO YEARS, WHEN A LARGE OF PART OF THESE OBLIGATIONS ARE EXPECTED TO COME DUE. THE BOTTOM LINE IS, DESPITE THESE OUTSTANDING OBLIGATIONS THE PROGRAM IS OPERATING AS IT WAS INTENDED TO OPERATE AND COULD, IN FACT, SUSTAIN MUCH HIGHER OBLIGATION LEVELS.

IN FACT, THE DEPARTMENT OF TRANSPORTATION HAS STATED THAT INDEED THE TRUST FUNDS COULD SUSTAIN HIGHER LEVELS OF OBLIGATION. SHORTLY BEFORE THE FY90 ADMINISTRATION BUDGET WAS RELEASED A FACT SHEET WAS SENT TO MY OFFICE FROM THE ASSISTANT SECRETARY FOR GOVERNMENT AFFAIRS AT DOT STATING, "IF WE WERE TO MAKE FULL USE OF TWO YEARS OF FUTURE INCOME, AS THE LAW PROVIDES, OBLIGATION LEVELS COULD BE RAISED BY ABOUT 35 PERCENT ABOVE THIS YEARS LEVEL FOR ABOUT THREE YEARS. THAT WOULD REDUCE THE CASH BALANCE BY ABOUT $6 BILLION BY THE END OF 1993." THE FACT SHEET GOES ON TO EXPLAIN THAT WE MUST KEEP OBLIGATION LEVELS LOW BECAUSE OF OVERALL DEFICIT TARGETS.

WELL I DON'T BUY THAT ARGUMENT. THE HIGHWAY USER PAID A GAS TAX TO IMPROVE THE ROADS HE DRIVES ON. WE PROMISED THAT THE MONEY HE PAID WOULD BE USED FOR ONE PURPOSE, AND ONE PURPOSE ONLY. TODAY WE ARE HOLDING BACK HIGHWAY SPENDING IN ORDER TO MAKE UP FOR PROBLEMS IN THE REST OF THE BUDGET -- ESSENTIALLY WE ARE BALANCING THE BUDGET ON THE BACKS OF THE HIGHWAY USER. WE ARE MASKING OVERSPENDING IN OTHER PROGRAMS FUNDED BY THE GENERAL FUND BY MAKING THE HIGHWAY USER FOOT THE BILL. I KNOW THAT MONEY IS BEING CREDITED TO THE HIGHWAY ACCOUNT FOR FUTURE USE, BUT WHEN WILL THAT FUTURE COME? WHEN WE HAVE A SURPLUS IN THE BUDGET? THAT WON'T HAPPEN IN YOUR LIFETIME OR MINE. CONGRESS HAS BROKEN FAITH WITH THE THOSE WHO HAVE WILLINGLY CONTRIBUTED TO THE HIGHWAY ACCOUNTS AND EXPECT HIGHWAY IMPROVEMENTS. CONGRESS HAS ABROGATED ITS FIDUCIARY RESPONSIBILITY TO THE TAXPAYER, AND IT IS TIME TO MAKE THAT UNDENIABLY CLEAR. AND IT IS TIME TO CORRECT THE SITUATION.

THAT EVERYONE IS IN AGREEMENT ON THE CRITICAL INFRASTRUCTURE NEEDS WE ARE FACING. THE USERS ARE WILLING TO PAY THEIR FAIR SHARE AND THOSE DEDICATED TAXES SHOULD BE SPENT ON THE PROMISED IMPROVEMENTS. SO HOW DO WE ACHIEVE THIS? EACH YEAR WHEN THE DEFICIT FIGURES ARE CALCULATED, A DETERMINATION IS MADE THAT WE JUST CAN'T AFFORD A HIGHER LEVEL OF TRANSPORTATION SPENDING, DESPITE THE FACT THAT THE BALANCES CONTINUE TO BUILD IN THE TRUST FUND.

TAKING THE TRUST FUNDS OUT OF THE UNIFIED BUDGET, SO THAT THE DEDICATED RECEIPTS AND EXPENDITURES NO LONGER ARE INCLUDED WHEN FIGURING THE BUDGET DEFICIT, WOULD REMOVE THE INCENTIVE TO KEEP TRANSPORTATION SPENDING LOWER THAN THE TRANSPORTATION TAXES CAN SUPPORT. YEAR AFTER YEAR WE CONTINUE TO BREAK FAITH WITH THE HIGHWAY USER BY NOT USING THE TAXES COLLECTED TO IMPROVE THIS SYSTEM -- THERE MUST BE A WAY OUT OF THIS VISCIOUS CIRCLE, AND OFF-BUDGET STATUS APPEARS TO OFFER THAT HOPE. AT LEAST REMOVING THE TRUST FUNDS FROM THE UNIFIED BUDGET WILL REMOVE THE OVERWHELMING TEMPTATION TO KEEP SPENDING LOW IN AN ENDLESS GAME OF SMOKE AND MIRRORS AND BUDGETARY MANIPULATION. WE HAVE BROKEN FAITH WITH A TRAVELING PUBLIC THAT HAS BEEN PAYING TAXES CONFIDENT OF THE GOVERNMENT'S COMMITMENT -- A COMMITMENT WHICH HAS BEEN BROKEN.

I HAVE INTRODUCED LEGISLATION TO TAKE THE HIGHWAY, AIRPORT AND AIRWAY AND INLAND WATERWAYS TRUST FUNDS OFF-BUDGET. THE HOUSE

PUBLIC WORKS AND TRANSPORTATION COMMITTEE'S INVESTIGATIONS AND OVERSIGHT SUBCOMMITTEE HELD A HEARING YESTERDAY IN WHICH WE WENT INTO SOME DETAIL ON THE OPERATIONS OF THE TRUST FUNDS AND THE ABUSES OF THE FUNDS. I HOPE THIS SUBCOMMITTEE WILL EXAMINE THAT RECORD AND INVESTIGATE THIS ISSUE IN DETAIL. CLEARLY, WE NEED TO ACT NOW TO MAINTAIN THE INTEGRITY OF THESE FUNDS AND KEEP OUR COMMITMENT TO THE HIGHWAY USER.

I HAVE BEEN LOOKING FORWARD TO TESTIFYING BEFORE THE SUBCOMMITTEE TODAY. I THANK THE CHAIRMAN FOR ALLOWING ME TO TESTIFY, AND I HOPE THE COMMITTEE WILL GIVE SERIOUS CONSIDERATION TO FUTURE OFF-BUDGET STATUS FOR THE HIGHWAY TRUST FUNDS.

STATEMENT OF KATE L. MOORE
ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS
U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION,
AND INFRASTRUCTURE
OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
May 9, 1990

Introduction

Mr. Chairman, Senator Symms, Members of the Subcommittee, I thank you for inviting me here this morning to discuss the Highway Trust Fund. I am pleased to have with me today Mr. Gene McCormick, the Deputy Administrator of the Federal Highway Administration. Your letter of invitation to Secretary Skinner included a list of policy and technical issues of interest to the Subcommittee. I will try to touch on most of those issues in my formal statement, and then Mr. McCormick and I will be pleased to answer any questions you may have.

Dealing with issues related to the transportation trust funds has occupied a significant portion of my first year at the Department of Transportation -- along with assisting in the development of Secretary Skinner's National Transportation Policy, where we dwelt considerably on the Nation's infrastructure needs.

With respect to the transportation trust funds, I have learned that the issues are complex, that the public debate on the issues includes a great deal of misinformation, and that setting the record straight is a difficult task. For that reason, I appreciate your willingness to provide a forum for informed debate of the issues.

I propose to provide some background on the Highway Trust Fund before I discuss the specific issues of increased spending levels as proposed in S. 2013 and of the budget status of the trust fund, which is the issue in a number of other proposals that have been presented. History has some important lessons for us, and, in the interest of some expediency today, it is well to remember the wisdom of Oliver Wendell Holmes' observation that "A page of history is worth a volume of logic."

History of the Highway Trust Fund

The Highway Trust Fund was created in 1956 in support of the vision of Dwight D. Eisenhower and the Congress to build a national Interstate Highway System. The trust fund is funded by highway user fees -- primarily, a cents-per-gallon charge on motor fuels, but other excise and truck use taxes as well.

Funds authorized from the trust fund are distributed to the States on a formula basis.

Perhaps it would be useful to digress here to explain the budgetary notion of "contract authority," because it plays a critical role in the transportation trust funds. As you know well, Congress authorizes funds in authorization legislation and subsequently appropriates funds in appropriations bills. Authorized funds generally cannot be used until they are appropriated. Contract authority is a special kind of budgetary resource that is available for obligation without Appropriations Committee action. The authorizations for the Federal-aid highway program provide mainly contract authority. Each year, by law, on October 1, the Federal Highway Administration (FHWA) apportions to the States most of the contract authority under a formula distribution that is established by law. There are also some amounts distributed through discretionary allocations.

That is all the action that is needed to obligate the funds, and, if Congress took no further action, the States could proceed to obligate all the contract authority apportioned to them. However, that is not the last Congressional word. An annual obligation limitation is also imposed as part of the appropriations process on most elements of the Federal-aid highway program. This limitation is generally less than the full amount of contract authority that would otherwise be available for obligation. Obligation authority is distributed to the States at the same time as the contract authority is apportioned, or when discretionary allocations are made. States are then constrained, by the amount of obligation authority they are provided, in how much of their contract authority they can obligate in total. The States do have discretion to decide how to use their obligation authority across the range of specific Federal-aid programs. Depending on a State's priorities, it could use its obligation authority to obligate all its Interstate construction funds, for example, if completion of gaps in that System were its top priority. It would then have to make up for that by obligating proportionately less of its Federal-aid funds in another category.

I should note that traditionally some elements of the Federal-aid highway program are exempted from the obligation limitation. The major elements that are exempted are the Minimum Allocation program (which ensures that each State receives at least a percentage of the total apportionments equal to 85 percent of its percentage contribution in tax receipts) and the Emergency Relief program. Special authorizations for demonstration projects have also usually been exempted from the limitation.

Not only do States decide how to use their obligation authority among the various specific Federal-aid programs, they also decide which projects to advance with the funds they use. The Federal-aid highway program is a federally assisted, State-administered program.

Once FHWA approves a project that the State proposes, the Federal share of the cost of the project is considered "obligated." The State then proceeds -- doing the detailed engineering, advertising for bids, and selecting a contractor, who then begins work. The State incurs costs, pays the bills, and then seeks reimbursement of the Federal share from FHWA. Federal outlays (i.e., actual expenditures) do not occur until the State is reimbursed.

Because Federal payments are reimbursements to the States and because it is typically several years from project approval to project completion, outlays are spread out for several years after obligations. Based on a long history of actual expenditures, we estimate that, on average, one dollar obligated this year will mean an outlay of 17 cents this year, 52 cents next year, 15 cents in the third year, 5 cents in the fourth year, and 3 cents in the fifth year. That is 92 cents of the dollar; the remaining 8 cents is paid out over the next several years following the fifth year.

Since the highway program is "slow spending," commitments can be made that depend on future-year revenue, that is, FHWA can approve projects and incur obligations that total more than the current cash balance. The law permits that approach under a provision known as the Byrd Amendment, which was sponsored by Senator Harry Byrd and dates back to creation of the trust fund. The Byrd Amendment, as amended in the Surface Transportation Assistance Act of 1982, says that FHWA can apportion contract authority at the beginning of any one year as long as that new contract authority plus existing unpaid commitments do not exceed the current cash balance and the projected income for that coming year plus the next two. In other words, we are legally permitted to be in a position where, if we stopped the program at the end of one year and made no new commitments, we are authorized and would need to continue to collect taxes and earn interest for up to two years to pay the bills for commitments we had already made.

Recent History

As most of you, no doubt, well remember, in 1982, then President Reagan proposed and Congress enacted an increase in the motor fuel tax, from 4 cents a gallon to 9 cents. That was the first significant increase since 1960, and I might add that the cash balance in the Highway Trust Fund at the end of 1982 was $9.0 billion, or, in 1990 dollars, $11.9 billion -- more than the cash balance now. At that time, Congress also made a major increase in the truck use tax. In 1984, the truck use tax was reduced and a "diesel differential" was created. Diesel, which is a common fuel for trucks, is taxed at 15 cents a gallon. Non-truck users of diesel are entitled to a rebate on their income tax to offset the diesel differential. In addition to the motor fuel tax and the truck use tax, there are excise taxes on the sale of trucks and truck tires. There are two partial exemptions from the motor fuel tax: gasohol and ethanol/methanol not made from petroleum or natural gas are taxed at 3 cents per gallon, and ethanol/methanol made from natural gas is taxed at 4.5 cents per gallon.

In FY 1989, the gas tax, including the tax on gasohol, accounted for 58 percent of annual revenue; the diesel tax, for 28 percent, the truck sales tax, for 8 percent; the truck use tax, for 4 percent; and the truck tire tax, for 2 percent.

The Mass Transit Account

As part of its proposal to raise the fuel taxes in 1982, the Administration also proposed to dedicate one cent of the increase to transit and create a new Mass Transit Account in the Highway Trust Fund to accept those receipts. (The rest of the tax receipts went to the newly created Highway Account.) Congress accepted that proposal.

The Mass Transit Account operates much the same as the Highway Account. One difference is that, instead of the Byrd Amendment, commitments from the Mass Transit Account are governed by the Rostenkowski Amendment, which limits the reliance on future-year revenue to one year beyond the current year, rather than the two years under the Byrd Amendment. Like the Federal-aid Highway program, the portion of the Urban Mass Transportation Administration's (UMTA) program that is financed from the Mass Transit Account is contract authority.

Balances in the Highway Trust Fund

There are two important figures in any discussion of the trust fund balances: the cash balance and the uncommitted balance. The cash balance represents the amount of money that the Treasury Department credits to the trust fund at any particular moment. There are two important things to say about the cash balance: one, there is not really a pot of cash sitting in the Treasury -- in fact, the cash balance is invested in government securities; and, two, the cash balance is not a "surplus," since there are outstanding commitments against it, that is, bills for commitments already made that will have to be paid. The situation might be compared to a personal checking account: you may have written checks that have not cleared your bank yet, so the bank's statement of your balance looks better than you know it to be.

At the end of this fiscal year, we project a cash balance in the Highway Trust Fund of $17.9 billion -- $11.0 billion in the Highway Account and $6.9 billion in the Mass Transit Account. Commitments against that balance will total $37.4 billion -- $33.0 billion against the Highway Account and $4.4 billion against the Mass Transit Account. So, commitments will exceed the balance in the Highway Account by $22.0 billion, and the cash balance will exceed the commitments against the Mass Transit Account by $2.5 billion, that is, the Mass Transit Account will have a surplus of $2.5 billion.

There are two kinds of commitments: one, commitments made for specific, approved projects, where Federal funds have been obligated for the projects but, because States have not yet sought reimbursement, have not been expended. These we call, logically enough, unexpended obligations. The second kind of commitment is the more general commitment represented in the contract authority that Congress has authorized, and most of which has been apportioned to the States, but which has not been obligated, either because of obligation limitations or because, independent of obligation limitations, recipients have not been able to advance projects with those funds yet. These "unobligated balances" still represent a commitment to the States.

In the Highway Account, unobligated balances exist because of obligation limitations and because of unobligated contract authority for programs not subject to the limitation. The States have never failed to use all the obligation authority available in any one year, due in part to the redistribution of authority in August of each year from States that cannot use all their authority to States that can use more. Of the $33.0 billion in commitments against the cash balance of the Highway Account, $22.0 billion is unexpended obligations and $11.0 billion is unobligated balances.

To put these balances into perspective, it may be useful to make a historical comparison. The cash balance in the Highway Account will be $11.0 billion at the end of this fiscal year. In 1979, the cash balance reached its highest level -- $12.6 billion, which is the equivalent of over $21 billion in 1990 dollars. In recent years, the balance has been increasing in nominal dollars by an average of about 2.4 percent a year since 1982, when the gas tax was more than doubled.

Looking at the $33 billion in commitments, we see that they will be about three times the cash balance at the end of this year. Within that $33 billion, the unexpended obligations of $22 billion -- unpaid bills for projects already approved -- will be twice the cash balance. By comparison, at the end of 1982, just before the fuel tax was increased, commitments were only a little more than twice (212 percent of) the cash balance, and unexpended obligations were only 46 percent higher than the cash balance. You can see that the cash balance is more leveraged today than it was in 1982. And, back in 1979, commitments were only 50 percent higher than the cash balance, and unexpended obligations were only 8 percent more than the cash balance.

The Mass Transit Account has a surplus basically because the authorized levels have been less than the level of annual tax receipts, not to mention total annual income including interest. At the same time, Congress has appropriated an average of about $2 billion a year from general revenue for mass transit.

With that background on the Highway Trust Fund, I will turn to the issues you indicated were of interest to the Subcommittee.

S. 2013

The bill introduced by Senator Bryan would remove any obligation limitation previously enacted for Federal-aid highways and highway safety construction programs and would add $3 billion to the amounts already authorized for programs under Title 23, United States Code, (generally, highway construction and highway safety programs) for the year it was enacted and the subsequent two years, and direct the Secretary to "expend" that additional money. Finally, it would authorize and direct the Secretary to "expend" on Title 23 programs such sums as are deposited into the Highway Trust Fund in the third fiscal year after enactment and subsequent fiscal years.

As technical matters for the purpose of analyzing Senator Bryan's bill, we have assumed (1) that the bill would be enacted this year, (2) that the additional $3 billion distributed in FYs 1990 and 1991 would not affect the Minimum Allocation apportionment in those years and that the $3 billion in FY 1992 would be apportioned to the States in the same pattern as obligation authority this fiscal year, (3) that the term "expended" means "obligated," and (4) that the States would obligate all new contract authority in the year it is first authorized and the unobligated balances at the beginning of this fiscal year evenly over the period FYs 1990-1992. Under those assumptions, S. 2013 would increase the Federal deficit by $1.2 billion this fiscal year, and by $4.9 billion over the President's proposals for FY 1991. Its effects in later years would depend upon assumptions about reauthorization of Title 23 programs for FY 1992 and of highway user fees beyond their current expiration date at the end of FY 1993.

Under the terms of Gramm-Rudman-Hollings, the nearly $5 billion deficit increase the bill would cause in FY 1991 would have to be offset elsewhere in the Federal budget. The bill provides no such offset. While we share the Senator's concern for our Nation's highways, we believe we can address the needs we face there without abandoning the critical effort to reduce the Federal deficit. I will discuss that in more detail shortly.

Revenue Issues

You expressed an interest in revenue trends since 1980, projected revenues for future years, and tax compliance and evasion. The table below shows tax and interest income since FY 1980 and our projections through FY 1995 (assuming reauthorization of the user fees at current levels).

Highway Trust Fund Income
(Billions of Dollars)

	Highway Account			Mass Transit Account		
Year	Taxes	Interest	Total	Taxes	Interest	Total
1980	6,620	1,027	7,647	--	--	--
1981	6,305	1,129	7,434	--	--	--
1982	6,744	1,078	7,822	--	--	--
1983	7,777	1,076	8,853	520	3	523
1984	10,507	1,027	11,533	1,236	89	1,325
1985	11,801	1,106	12,908	1,214	206	1,420
1986	12,250	1,054	13,304	1,113	283	1,395
1987	11,793	934	12,727	1,239	344	1,583
1988	12,836	809	13,645	1,277	384	1,661
1989	14,358	776	15,134	1,269	469	1,738
1990	13,436	963	14,399	1,311	553	1,864
1991	13,768	*	*	1,345	*	*
1992	14,273	*	*	1,373	*	*
1993	14,674	*	*	1,402	*	*
1994	15,014	*	*	1,429	*	*
1995	15,388	*	*	1,455	*	*

* Depends on future obligation levels.

The FY 1990 DOT Appropriations Act permitted FHWA to use up to $500 thousand to initiate activities that will lead to the development of a joint Federal/State fuel tax compliance project. FHWA has been working with the Internal Revenue Service and tax enforcement personnel from several States to develop the details of that project. All parties agree that our implementation plan should be for a multi-year project that will allow the IRS and the States to make a long-term commitment of staff resources to the project. In the initial stages of the project, three States will be identified as lead States. Highway Trust Fund monies will be used to support additional compliance activities in those States and States surrounding the lead States. Additional IRS fuel tax compliance activities related to this project will also be supported with Trust Fund monies. The plan calls for expansion of the project over a five-year period until, in FY 1995, all States where a need is shown to exist will be covered by the project. Our FY 1991 Budget request includes $2 million to continue this project.

Budget Status: The Issues

The next several issues you have asked us to address relate to the question of the budget status of the Highway Trust Fund: whether annual obligation limitations should be imposed, the use of interest accruing to the trust fund, and proposals to take the trust fund off budget.

I think we should ask a series of questions to help us reach consensus (if that is possible) on the budget status of the trust fund:

- First, are we committed to reducing the total Federal deficit, that is, to reducing the amount of money the Federal government must borrow from private lenders to pay its bills?
- Second, if so, can we ignore trust fund spending in setting the annual budget for the Federal government?
- Third, if not, should trust fund spending levels be established as part of the overall budget process?
- And, finally, if trust fund spending should be established as part of the overall budget process, have we been fair to those who pay user fees when we set those spending levels? Can we be fair in the future?

Are we committed to reducing the total Federal deficit?

By enacting the Gramm-Rudman-Hollings law, Congress and the Executive Branch established reduction of the Federal deficit as a national priority. As that legislation developed, many Members of the Environment and Public Works Committee proclaimed the merits of the proposal, calling large budget deficits "the most serious domestic problem confronting the nation today," and observing that every American "stands to gain" by getting the deficits on a downward path; Americans would enjoy lower interest rates and be more competitive in the international marketplace. In October 1987, we saw renewed proof of the importance of deficit reduction when the apparent inability of the Federal government to reach a budget agreement for FY 1988 that would bring down the deficit helped bring on the worst stock market decline since 1929. Chastened by that event, Congress and the White House quickly reached a 2-year budget agreement to assure the country that the Federal government could deal with the deficit.

The deficit, as we all know, is a simple calculation: total Federal outlays minus total Federal income. The difference is what the Treasury must borrow from private lenders to pay its bills. In terms of macroeconomic effects, that is the "deficit" that counts: it affects the interest rates all borrowers pay, and, therefore, the cost to produce and distribute goods and services in this country and abroad. It affects our competitiveness abroad. I would hope that, whatever we may think about particulars in Federal spending, we can agree that it is critical not to lose sight of the total Federal deficit.

Can we ignore trust fund spending in setting the annual budget for the Federal government?
If we can agree that we must not lose sight of the total Federal deficit, I think we must then agree that we cannot ignore trust fund spending in setting the annual Federal budget. If we ignore it, and simply deal with non-trust fund programs, we will not be considering the whole picture, and we could not ensure that we will meet our deficit reduction targets. If we accelerate obligations to draw it down, the resulting outlays, in addition to the outlays that will result from obligations already made and from proposed spending levels for next year, could result in a significant increase in the Federal deficit above the Gramm-Rudman-Hollings target for next year, which already appears more difficult to achieve than we thought in January.

Should trust fund spending levels be established as part of the overall budget process?
If we can agree that we cannot ignore trust fund spending in establishing the budget, should the trust fund programs be "on the table" with other Federal programs? Or should their spending levels be set first, without regard to competing needs and, then, spending be set for other programs so as to achieve overall deficit targets? I suspect that it is on this question that we may begin to find some disagreement.

On the one hand, trust funds are supported by user fees dedicated to specific purposes, so, the argument goes, the trust funds should be used without regard to spending in other areas. I know that the Members of the Environment and Public Works Committee are dedicated -- as is Secretary Skinner -- to seeing that the Nation's transportation needs are met. There is an obvious frustration in not seeing more of the trust fund balances used to meet those needs. On the other hand, those who pay user fees benefit from other Federal spending programs for which spending might be reduced to offset increased trust fund spending. Some are obvious: as I have discussed, transit has been receiving almost twice as much from general Federal revenues as it has from the transit penny of the fuel tax, and it would be a mistake to ignore that. Aviation users have been benefiting from FAA Operations -- the services of air traffic controllers, those who maintain critical air traffic control equipment, and aviation safety inspectors, for example -- that have been largely funded from general revenues. As an example of the kind of ironic consequence that might result from setting trust fund spending levels without regard to other government spending, excessive spending on FAA's capital programs might have to be offset by reductions in general fund support of

FAA Operations: we might go on buying new computers for air traffic controllers to use, and be unable to hire the controllers to use them.

Those who pay user fees -- that is, virtually all Americans, since almost all of us ride in automobiles or fly in airplanes at various times -- have an interest in a great deal of the rest of the Federal budget, as well, although that interest does not justify the diversion of user fees to support general Federal spending. I am sure, for example, that we all want an adequate national defense; we all care about education, health programs, clean-up of hazardous nuclear wastes, environmental protection, anti-drug programs, and public safety programs, to name but a few programs that affect a broad cross-section of American citizens.

The needs of our transportation systems are real, and Secretary Skinner, the heads of our operating administrations, and I have been and will continue to be forceful advocates for meeting those needs both within the Administration and before Congress. But I do not believe that we need special budget treatment -- which may come at the expense of other DOT programs or other non-transportation programs of critical importance to America -- to ensure adequate funding for trust fund programs.

And that leads me to the final questions:
Have we been fair to those who pay user fees when we set trust fund spending levels? Can we be fair in the future?
I believe the answer to these questions is "yes." Let me address each of the programs.

With respect to spending from the Highway Account, as I have mentioned, the amount of outstanding commitments is three times the cash balance, which means that, if we were to end the program at the end of this year and apportion no new contract authority, we would need an additional $22 billion to pay off those commitments. To put that into perspective, we project that the Highway Account will receive $14.7 billion in tax receipts next year, so commitments currently exceed the cash balance by the equivalent of a year and a half of tax receipts.

The important fact is, though, that highway spending has exceeded tax receipts since the creation of the Highway Trust Fund. Since FY 1985, the Highway Account has added to the Federal deficit in every year but one. During the last highway authorization period (1983-1986), spending exceeded user fee receipts by $3.8 billion. During 1987-1991, highway outlays are projected to exceed user fee receipts by approximately $2.3 billion.

Those who pay user fees are seeing more spent on highways than they are paying in user fees. The issue, of course, is interest: the current cash balance is equivalent to the interest that has been credited to the trust fund less the excess of outlays over tax receipts. I do not argue that interest should not accrue or that it should not be dedicated to highway purposes, but it is not a "user fee" -- it is an intragovernmental transfer. That is, it is money credited to the trust fund from general revenues, but, with the deficit this country faces, the Treasury does not have that interest to spend. If spending is increased to use more of the interest that is accruing, the Treasury will have to borrow to pay the resulting bills.

With respect to the Mass Transit Account, outlays have been less than tax receipts, but total Federal spending on transit has far exceeded tax and interest collected in the Mass Transit Account. For example, this year the Mass Transit Account will earn about \$1.3 billion in taxes and about \$550 million in interest. Mass Transit Account outlays will only total about \$976 million, but total outlays by the Urban Mass Transit Administration will total \$3.5 billion -- 2.7 times the total tax revenue paid into the Mass Transit Account this year. Given those figures -- all for mass transit -- it is hard to argue that those who pay the transit penny are not getting what they are paying for, although it surely says that we must carefully consider, as we look at reauthorization for FY 1992, how we can make better use of the Mass Transit Account and reduce reliance on general revenues.

Conclusion

In conclusion, permit me to review the questions I posed. Are we committed to reducing the total Federal deficit? I hope so; I think our country's future is critically dependent on an affirmative answer to that question. Can we achieve deficit reduction and ignore trust fund spending? I do not see how: if we tried, we would not be considering the whole picture, and we could not ensure that we would meet our deficit reduction targets.

If we cannot ignore trust fund spending levels, should they be set as part of the overall budget process? I think they have to be. To do otherwise might mean critical underfunding of other government -- even other DOT -- programs to achieve necessary deficit reductions. As I mentioned before, I doubt that aviation users would want to see increased trust fund spending for airports and FAA equipment result in underfunding of the salaries of the FAA personnel who operate the equipment and control flights into and out of airports.

If we set trust fund spending levels as part of the budget process, can we treat fairly those who pay the fees that go into the transportation trust funds? As I hope I have shown you, we can and have done so. In all cases, more has been spent on the programs that the trust funds support than has been paid by users into the trust funds.

Finally, where do we go from here? We have submitted to the Congress a proposal for Federal aviation programs and reauthorization of the Airport and Airway Trust Fund that we believe is bold and aggressive to meet this Nation's critical aviation needs. We propose a 73 percent increase in funding for capital and research programs, and elimination of a Federal barrier to airports' increasing their revenue base through establishment of a passenger facility charge (PFC), a critical initiative for capacity expansion. The surface transportation programs need to be reauthorized for FY 1992, and we are working on a proposal for that reauthorization now. Your Subcommittee will be a key player in that reauthorization process, and we look forward to working with you in that process.

Again, let me thank you for inviting us to participate in your hearing today. I hope I have been able to provide some helpful information, and Mr. McCormick and I will be pleased to answer your questions.

ATTACHMENT TO THE STATEMENT OF
ASSISTANT SECRETARY KATE L. MOORE
U.S. DEPARTMENT OF TRANSPORTATION

Chart A

Compares cumulative tax receipts to cumulative outlays for the Highway Account of the Highway Trust Fund since the Trust Fund was created in 1956. The chart shows that outlays have exceeded tax receipts over the life of the Trust Fund, i.e., that all user fees have been expended.

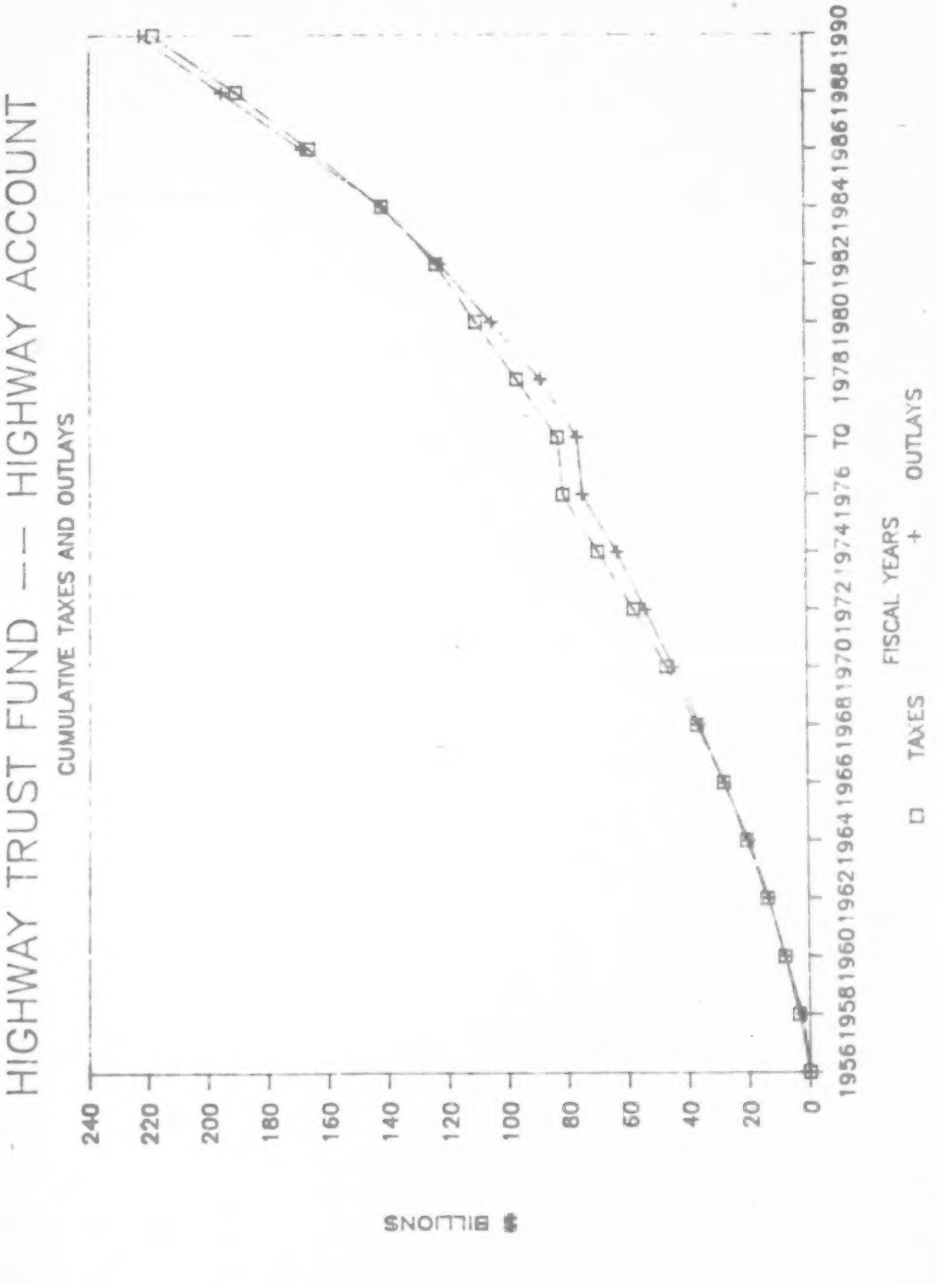
Chart B

Compares commitments to cash balances for the Highway Account of the Highway Trust Fund for the period FY 1979 to FY 1990. Commitments are shown as unexpended obligations (i.e., unpaid bills for projects already approved) and unobligated balances. The chart shows that, while the cash balance has remained relatively steady over the period, commitments against the balance -- and, especially, unexpended obligations -- have increased significantly.

Chart C

Compares commitments to cash balances projected at the end of FY 1990 for the Highway Account and the Mass Transit Account of the Highway Trust Fund and for the Airport and Airway Trust Fund. The chart shows that, in the case of the Highway Account, commitments are equal to three times the cash balance. The Mass Transit Account and the Airport and Airway Trust Fund have genuine surpluses, but those programs have been heavily funded with general funds in addition to trust funds.

CHART A


HIGHWAY TRUST FUND --- HIGHWAY ACCOUNT
CUMULATIVE TAXES AND OUTLAYS
$ BILLIONS
240
220
200
180
160
140
120
100
80
60
40
20
0
1956
1958
1960
1962
1964
1966
1968
1970
1972
1974
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1976 TQ
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1980
1982
1984
1986
1988
1990
FISCAL YEARS
□ TAXES
+ OUTLAYS

CHART B

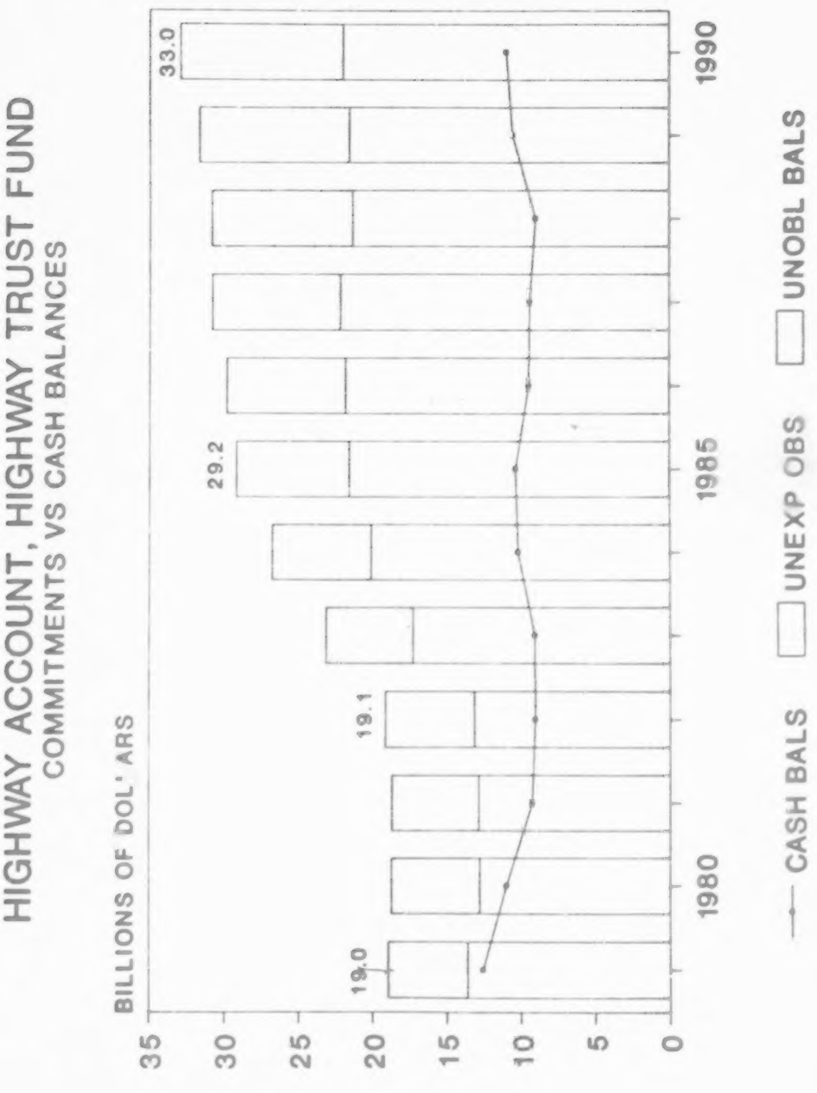
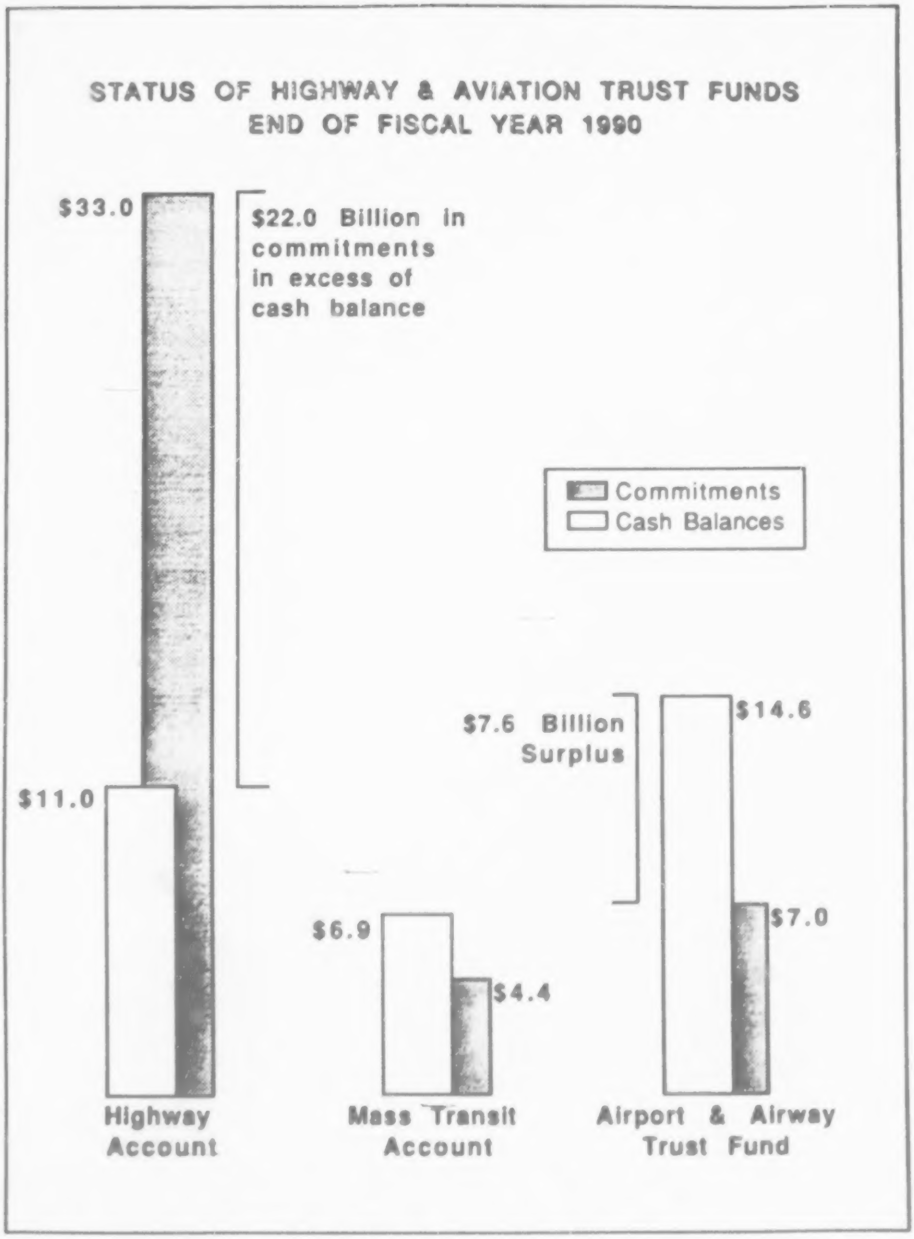

HIGHWAY ACCOUNT, HIGHWAY TRUST FUND
COMMITMENTS VS CASH BALANCES
BILLIONS OF DOL' ARS
35
30
25
20
15
10
5
0
19.0
19.1
29.2
33.0
1980
1985
1990
CASH BALS
UNEXP OBS
UNOBL BALS

CHART C



STATUS OF HIGHWAY & AVIATION TRUST FUNDS
END OF FISCAL YEAR 1990

QUESTIONS FROM SENATOR LAUTENBERG AND ANSWERS FROM ASSISTANT SECRETARY KATE L. MOORE

Question #1:

To the extent that there really is a surplus, it would be the difference between the existing contract authority and the total of (a) the current balance, (b) revenues for the coming two years, and (c) the interest. That difference would be the additional amount that could be spent without modifying existing law -- is that correct? What is that amount?

Answer:

The calculation you have described is the calculation defined by the Byrd Amendment. If the calculation used end-of-fiscal-year figures, it would indicate the additional amount of contract authority from the Highway Account of the Highway Trust Fund that could be authorized and apportioned to the States under the terms of the Byrd Amendment.

We estimate that, at the end of this fiscal year (1990), the outstanding obligations against the Highway Account (the sum of unexpended obligations and unobligated balances) will be $33.0 billion. The cash balance will be $11.0 billion. The projected tax receipts for FYs 1991 and 1992 will total $28.0 billion, and the projected interest for those two years will total $1.8 billion. The sum of the end-of-FY-90 cash balance and projected income for FYs 1991 and 1992 will be $40.8 billion. The difference between that sum and the outstanding obligations will be about $7.8 billion. That is the additional amount of contract authority that could be authorized this year under the terms of the Byrd Amendment. It would, of course, require a modification of existing law to authorize that additional sum, and use of the additional authority by the States could be constrained by the obligation limitation imposed in the appropriations act for this year.

I would make two important points about the figure which that calculation yields. One, I would not call it a "surplus." As I discussed in my testimony before the subcommittee, the Byrd Amendment might be viewed as establishing a line of credit. The unused amount of a line of credit is not normally viewed as an asset and, I would argue, should not be seen in this case as a "surplus." Second, it is widely believed that the Byrd Amendment provides guaranteed protection against a deficit in the Highway Account. In fact, it is possible to project authorization and obligation levels into the future that would stay in compliance with the Byrd Amendment, but that would result in a negative cash balance. Thus, it is important that we take a more comprehensive view of Highway Account spending than simply evaluating it against the Byrd Amendment.

Question #2:

Would the Department support increased spending levels in order to "spend down" the Trust Fund by the amount described in the first question?

Answer:

The Administration has proposed an obligation level for FY 1991 that would result in outlays exceeding projected tax receipts. The level proposed is sufficient to cover the Federal share of the cost to maintain the physical condition of bridges and highways of national importance and to continue completion of the Interstate System. The National Transportation Policy reflects our commitment to "spend transportation trust fund balances over time in a fiscally responsible way." As we develop our proposal for reauthorization of the Federal-aid highway program for FY 1992 and subsequent years, we are reviewing the Federal responsibility for our Nation's major highways and bridges and considering the best way to use available resources to fulfill that responsibility.

Question #3, #4, #5, #6:

#3: I think you're aware of my concern about the revenues we lose to the gasohol exemption. Last Fall, I asked the Department to provide its estimate of the revenue loss due to the Senate's Clean Air proposal on oxygenated fuels. The Department's estimate was $1.06 billion annually, wasn't it?

#4: That figure has been testified to by the Department as well, has it not?

#5: Currently, the gasohol exemption results in about $500 million in lost revenues, correct?

#6: Is that loss -- the $500 million -- assumed when the Department puts together its budget proposal?

Answers:

The Department of Transportation's original estimate of increased gasohol exemption losses to the Highway Trust Fund under the Senate Clean Air proposal was $1.06 billion. This estimate, which was cited in testimony before Congress, represents a worst-case increase based on the assumption that all oxygenated fuel requirements would be met by gasohol in carbon monoxide (CO) nonattainment areas. Should the credits trading feature in the Senate bill work perfectly, we estimate that the increased losses to the Highway Trust Fund would be approximately $500 million, since other additives including ethyl tertiary butyl ether (ETBE) and methyl tertiary butyl ether (MTBE) could displace some of the gasohol. Use of ETBE or other ethanol products through 1992 will, however, result in a general fund revenue loss from the alcohol fuel credit. This credit is scheduled to expire December 31, 1992.

Since these estimates were made, the Senate bill has been amended to add a requirement for oxygenated fuel in the nine most severe ozone nonattainment areas to the earlier requirement for oxygenated fuels in CO nonattainment areas. Estimates of the impacts of the ozone requirement are difficult to make because of the many unknown variables involved. These include: the availability of ethanol and MTBE in sufficient quantities to meet clean air requirements; whether or not the alcohol fuel credit is extended beyond 1992 and, if so, how much ETBE will be available; whether the Environmental Protection Agency can and will grant waivers to permit the use of high-percentage blends of MTBE or ETBE in lieu of gasohol, especially considering possible problems with materials compatibility and vehicle driveability; and whether or not the requirement for reduction of volatile organic compound emissions in the Senate bill will preclude the use of gasohol in ozone nonattainment areas.

Recent annual losses to the Trust Fund due to the gasohol exemption have been about $450 to $500 million. This amount is taken into account in our budget estimates.

Questions #7 and #8:

#7: Is the potential loss of $1 billion a year taken into account when looking at the next few years?

#8: That $1 billion represents about 8% of the current highway program. What impact would a loss like that have on the program? On the ability to meet obligations? Could it impair your ability to meet the Byrd Amendment requirements?

Answers:

The estimated future losses are not used for program planning because legislative action on the Clean Air Act is not yet final. However, a reduction in revenue of the magnitude expected would no doubt affect the authorization and obligation levels for the Federal-aid highway program in future years. We would not expect such a loss to affect our ability to meet obligations already incurred or our ability to meet the requirements of the Byrd Amendment through FY 1991. In reauthorizing the program for FY 1992 and subsequent years, revenue projections and Byrd Amendment requirements will have to be considered in setting authorization levels.

Question #9:

Would the Administration support a review of gasohol's gas tax exemption?

Answer:

We believe that needs to be one of the issues reviewed, on an inter-agency basis, during development of our proposal for reauthorization of the Federal-aid highway program and in connection with the scheduled expiration of tax incentives for alcohol used as fuel in 1992 and 1993.

As noted above, the estimated revenue loss resulting from the gasohol exemption is of considerable concern. The Administration remains concerned about the potential effects of oxygen mandates requiring the use of gasohol, particularly those contained in the Senate version of the Clean Air Act Amendments.

It is the preference of the Administration that State and local governments be allowed to determine the oxygen content necessary for their areas to reach attainment, not to set minimum content standards at the Federal level. Therefore, we oppose the 3.1 percent oxygen content mandate. At a minimum, areas which can show they can meet air quality standards through other measures should not be forced to adopt a specific oxygenate mandate.

STATEMENT OF
MARSHALL WASHBURN
DEPUTY ASSISTANT COMMISSIONER (EXAMINATION)
INTERNAL REVENUE SERVICE
BEFORE THE
SUBCOMMITTEE ON WATER, RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE
HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
MAY 9, 1990

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here today to discuss the collection of Highway Trust Fund Revenues. By way of introduction, I am the Deputy Assistant Commissioner for Examination at IRS, responsible for compliance activities involving civil examinations of reported taxes. With me today are Michael Orth, the Assistant Regional Commissioner for Criminal Investigation for the North Atlantic Region of IRS and Frank Boland, an attorney in the Office of the Assistant Chief Counsel (Passthroughs and Special Industries) at IRS. All of us will be available to answer any questions you or the Subcommittee Members may have at the conclusion of my statement.

Although IRS administers several excise taxes relative to the Highway Trust Fund, my comments today will focus primarily on the gasoline excise tax. IRS has several responsibilities in connection with this tax: we register gasoline taxpayers such as refiners, terminal owners, importers, thruputters, and blenders; collect and account for motor fuel tax payments; receive quarterly excise tax returns; and enforce compliance through our examination and criminal investigation programs.

Before discussing how IRS administers this excise tax, I would like to briefly review the gasoline tax provisions, and specifically how they were changed by the Tax Reform Act of 1986.

CURRENT LAW

Due to numerous reports and investigations of gasoline excise tax evasion, section 1703 of the Tax Reform Act of 1986 changed the point at which the Federal gasoline excise tax was collected. Tax collection was moved to a point earlier in the distribution chain to facilitate compliance by reducing the number of taxpaying entities. Before this change, the excise tax generally was imposed on the wholesaler at the time gasoline was sold to a retailer.

The Tax Reform Act amended sections 4081 and 4082 of the Internal Revenue Code so that, effective January 1, 1988, the excise tax is imposed upon removal or, if earlier, upon sale of the gasoline from the refinery or terminal. Excise tax is not imposed on bulk transfers of gasoline to terminals. Under current Treasury rules, gasoline may be transferred tax-free between registered taxpayers within a terminal or in bulk between refineries, points of import and terminals as long as these transfers take place via pipeline or marine transport vessel. The liability for the gasoline excise tax is on the person who sells previously untaxed gasoline in a taxable transfer. Thus, the tax generally is imposed on the sale to a wholesaler rather than a sale by a wholesaler to a retailer.

Under section 4081(a) of the Internal Revenue Code, as currently in effect, an excise tax of 9 cents per gallon at the Highway Trust Fund financing rate is imposed on gasoline sold or

REMOVED BY A REFINER, IMPORTER OR TERMINAL OPERATOR. THERE IS A REDUCED RATE OF TAX OF 3 CENTS PER GALLON AT THE HIGHWAY TRUST FUND FINANCING RATE ON GASOHOL.

TAXPAYERS ARE REQUIRED TO FILE A QUARTERLY EXCISE TAX RETURN AND MUST MAKE MONTHLY DEPOSITS OF TAX IN ANY MONTH IF THEY ARE LIABLE FOR MORE THAN $100 OF TAXES. MONTHLY DEPOSITS ARE DUE BY THE LAST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH LIABILITY IS INCURRED. IF A TAXPAYER IS LIABLE FOR OVER $2,000 OF TAXES FOR ANY MONTH OF A CALENDAR QUARTER, THE TAXPAYER MUST MAKE SEMI-MONTHLY DEPOSITS ON THE 9TH AND 24TH OF EACH MONTH. CERTAIN TAXPAYERS HAVE AN EXTRA FIVE DAYS TO DEPOSIT.

TAXPAYERS REPORT THEIR MOTOR FUEL EXCISE TAX ON FORM 720, ENTITLED "QUARTERLY FEDERAL EXCISE TAX RETURN". AS ITS NAME IMPLIES, FORM 720 IS FILED FOR EACH CALENDAR QUARTER AND IS DUE BY THE END OF THE MONTH FOLLOWING THE CLOSE OF THE CALENDAR QUARTER. TAXPAYERS FILING FORM 720 REPORTING MOTOR FUEL EXCISE TAXES ARE ALSO REQUIRED TO SUBMIT FORM 8743 TO PROVIDE DETAILED INFORMATION ON THEIR RECEIPTS, DISPOSITIONS AND INVENTORIES OF TAXABLE FUELS DURING THE QUARTER.

IRS ADMINISTRATION OF FUEL TAX

1. TAXPAYER REGISTRATION:

TO BE ELIGIBLE TO ENGAGE IN TAX-FREE TRANSACTIONS AND BEFORE INCURRING A LIABILITY OF THE EXCISE TAX, A PERSON MUST BE REGISTERED WITH THE IRS ON FORM 637 WITH THE IRS DISTRICT DIRECTOR WHERE THEIR PRINCIPAL PLACE OF BUSINESS IS LOCATED. ALL APPLICATIONS ARE SUBJECTED TO AN IN-DEPTH INVESTIGATION, WHICH MAY INCLUDE AN ONSITE VISITATION TO THE BUSINESS PREMISES, TO VERIFY THE APPLICANT'S FINANCIAL RESPONSIBILITY, FILING HISTORY, AND QUALIFICATIONS FOR REGISTRATION.

The results of this investigation will be either rejection, approval if an appropriate bond is posted with the district director, or approval without any other requirements. If a bond is required it will be in the amount of one month's average liability up to a maximum of one million dollars.

Through Fiscal Year 1989, we registered:

Refineries	255
Importers	63
Thruputters, terminal operators and traders	293
Blenders	287
Gasohol Blenders	1,309

After a registration is approved and validated by a district director, our guidelines require a follow-up investigation within six months and every two years until revoked or canceled.

A person cannot buy or sell gasoline tax-free without a valid registration number. In order to sell tax-free, the seller must document the registration issued by IRS to the purchaser. When the gasoline is ultimately sold to a purchaser who is not registered, or is removed from a terminal other than by a bulk pipeline transfer, the tax is imposed on the seller or owner.

2. IRS Examinations

IRS' examination program uses several different methods to ensure taxpayer compliance with the excise tax provisions.

Each year, IRS prepares a list of excise taxpayers from its file of all business taxpayers which is distributed to each IRS district. Excise tax specialists in each district then review their portion of the list to identify potential noncompliance. In making this review, the specialists consider numerous factors, including the taxpayer's past compliance history and reporting

PATTERNS. INFORMATION FROM THESE REPORTS CURRENTLY PROVIDES SIGNIFICANT LEADS FOR THE IRS EXCISE TAX EXAMINATION PROGRAM.

THE EXCHANGE OF INFORMATION WITH THE STATES PROVIDES ANOTHER SOURCE OF NON-COMPLIANCE LEADS. IRS OBTAINS COPIES OF STATE EXAMINATION REPORTS, LISTS OF BUSINESSES LICENSED TO SELL GASOLINE, AND OTHER STATE DATA THAT CAN BE USED TO IDENTIFY NONCOMPLIANCE. REFERRALS FROM OTHER IRS ACTIVITIES SUCH AS COLLECTION, CRIMINAL INVESTIGATION, OR INCOME TAX EXAMINATIONS ARE ALSO SOURCES OF LEADS FOR EXCISE TAX EXAMINERS.

COMPLIANCE INFORMATION PROJECTS PROVIDE A FURTHER METHOD OF IDENTIFYING POTENTIAL NONCOMPLIANCE WITH THE GASOLINE TAX. A COMPLIANCE INFORMATION PROJECT IS A DISTRICT AUTHORIZED INITIATIVE TO COLLECT INFORMATION ON POTENTIALLY NONCOMPLIANT TAXPAYERS. INFORMATION MAY BE OBTAINED FROM INFORMANTS, OTHER FEDERAL AND STATE AGENCIES, OR OTHER SOURCES.

IRS EXAMINATIONS OF GASOLINE EXCISE TAX RETURNS HAVE IDENTIFIED VARIOUS FORMS OF NONCOMPLIANCE. OFTEN, NONCOMPLIANCE RESULTS FROM USE OF INCORRECT TAX RATES, FAILURE TO FILE TAX RETURNS, OR ERRORS IN CHARACTERIZING CERTAIN SALES AS TAX-EXEMPT. BECAUSE WE HAVE JUST INITIATED EXAMINATIONS OF RETURNS FILED UNDER THE NEW LAW THAT WENT INTO EFFECT IN 1988, DATA TO GAUGE THE COMPLIANCE EFFECTS OF THE NEW LAW ARE NOT YET AVAILABLE.

EVASION PROBLEMS IN THE FUEL TAX AREA

DESPITE LEGISLATIVE ACTION AND EFFORTS TO CONTROL ABUSES, INCLUDING MOVING THE POINT OF TAXATION TO A POINT EARLIER IN THE DISTRIBUTION CHAIN AND MORE RIGOROUS INVESTIGATION AND FOLLOW-UP OF REGISTRATION APPLICATIONS, EVIDENCE BEING OBTAINED IN CURRENT INVESTIGATIONS INITIATED UNDER THE OLD AND NEW LAW INDICATES THAT

CRIMINAL TAX EVASION CONTINUES UNDER THE NEW LAW. CRIMINAL NONCOMPLIANCE SCHEMES INCLUDE:

1. "BOOTLEGGING"
    - A. BUYING PRODUCT OVERSEAS AND SMUGGLING IT INTO THE U.S.
    - B. RETAINING DOMESTIC PRODUCT FOR SALE IN THE U.S. WHILE DOCUMENTING IT AS SOLD TO A FOREIGN PURCHASER.
    - C. MISCLASSIFYING PRODUCT BEING IMPORTED.
    - D. MIXING A CHEAP NONTAXABLE ADDITIVE TO TAXED GASOLINE TO INCREASE ITS VOLUME, SUCH AS INTERFACE OR HAZARDOUS WASTE.
    - E. VAPOR RECOVERY IS WRITTEN OFF AS AN INVENTORY LOSS, WHEN, IN FACT, IT IS CAPTURED, RECLAIMED, AND SOLD FOR CASH.
2. "DAISY CHAIN OPERATION"

    CREATION OF A MULTI-LAYER "PAPER" TRANSACTION SCHEME TO CAMOUFLAGE THE ACTUAL TAXABLE SALE OF MOTOR FUEL BY A REGISTERED ENTITY TO AN UNREGISTERED DISTRIBUTOR.

    THIS PAPER TRAIL SHIFTS THE ACTUAL OR APPARENT TAXABLE TRANSACTION AND LIABILITY TO A "BURN COMPANY" WHICH IS LEGITIMATELY OR FRAUDULENTLY REGISTERED AND MAY HAVE NO ASSETS TO PAY THE TAX WHEN DISCOVERED.

    CURRENT INVESTIGATIONS SHOW THAT SINCE 1988, WITH THE IMPLEMENTATION OF THE TAX REFORM ACT OF 1986, THE USE OF THE "DAISY CHAIN" OPERATIONS MOVED FROM THE WHOLESALER TO THE TERMINAL LEVEL FOR GASOLINE EXCISE TAX, THOUGH IT IS TOO EARLY TO TELL TO WHAT EXTENT.
3. "FRONT OPERATIONS"

    USE OF A LEGITIMATELY REGISTERED FIRM TO BUY MOTOR FUEL FOR ANOTHER ENTITY ENGAGED IN EVASION OF EXCISE AND INCOME TAXES.

OUR CONCERN OVER NONCOMPLIANCE IS ILLUSTRATED BY THE INCREASE IN IRS CRIMINAL INVESTIGATIONS AND THE ESTIMATED CRIMINAL TAX DEFICIENCY IN RECENT YEARS. THE FOLLOWING TABLE SHOWS THE NUMBER OF CRIMINAL INVESTIGATIONS INITIATED AND CONVICTIONS OBTAINED FOR MOTOR FUEL EXCISE TAX EVASION FROM FY 1987 TO DATE:

Fiscal Year	Investigations Initiated	Convictions
1987	26	6
1988	33	12
1989	19	6
1990 (as of 3/30/90)	33	10

(Note: While investigations cover both old and new law violations, all convictions have been under old law.)

Of the 62 cases in our current criminal investigation inventory, 21 investigations relate to gasoline excise tax evasion schemes, 37 relate to diesel fuel tax evasion, and 4 pertain to organizations that are alleged to evade both taxes. The total estimated criminal tax deficiency for fiscal years 1986 through 1989 is $118 million.

THE SCOPE OF NONCOMPLIANCE

Assessments of fuel excise taxes, net of abatements and credits, in fiscal years 1987 through 1989 were $12.0 billion, $13.0 billion and $13.8 billion respectively. Of these amounts, gasoline excise tax accounted for $9.2 billion, $9.5 billion and $9.9 billion.

Because of the relatively recent change in the law affecting the collection point of the gasoline excise tax, there is no IRS estimate available on the scope of gasoline tax noncompliance. There are problems in making such estimates. Over the last few years, attempts have been made to estimate the compliance losses

IN THE GASOLINE EXCISE TAX USING INFORMATION FROM OTHER FEDERAL AGENCIES, STATE AGENCIES, AND OTHER SOURCES. HOWEVER, THE DATA WHICH CAN BE OBTAINED IS NOT PRECISE ENOUGH TO PERMIT ACCURATE COMPLIANCE PROJECTIONS. THERE HAVE BEEN OCCASIONS, FOR EXAMPLE, WHERE THE AMOUNT OF GASOLINE REPORTED AS SOLD IN THE UNITED STATES DURING A YEAR IS LESS THAN THE QUANTITY OF GASOLINE IMPLIED BY IRS ASSESSMENTS.

TREASURY'S OFFICE OF TAX ANALYSIS (OTA), IN ITS DECEMBER 1987 "REPORT ON EVASION OF THE FEDERAL GASOLINE EXCISE TAX", ESTIMATED THAT $100 MILLION OF REVENUE WAS LOST DUE TO WILLFUL EVASION OF GAS TAX. AN ADDITIONAL $150 MILLION OF REVENUE WAS ESTIMATED TO BE LOST THROUGH NON-CRIMINAL NON-COMPLIANCE. IN MAKING THESE ESTIMATES, TREASURY HAD TO ASSUME THAT A GASOLINE PURCHASER WHO IS NOT IN COMPLIANCE WITH STATE LAWS IS GENERALLY NOT IN COMPLIANCE WITH THE FEDERAL LAW. WHILE THIS IS A GENERALLY PLAUSIBLE ASSUMPTION IN MANY INSTANCES, IT FAILS WHERE THE STATE AND FEDERAL TAXES ON GASOLINE ARE IMPOSED AT DIFFERENT POINTS, AND ON DIFFERENT PERSONS, IN THE DISTRIBUTION SYSTEM, SUCH AS IN CALIFORNIA AND NEW YORK. SINCE THE TAX REFORM ACT OF 1986 MOVED THE GASOLINE EXCISE TAX COLLECTION POINT UPSTREAM, THE OTA HAS NOT ESTIMATED THE CURRENT GASOLINE EXCISE TAX GAP. THE IRS IS CONTINUING TO SEARCH FOR ALL RELEVANT INFORMATION AND TECHNIQUES OF ANALYSIS TO DETERMINE IF RELIABLE ESTIMATES CAN BE MADE AT THIS TIME.

IN CONDUCTING ITS ENFORCEMENT PROGRAMS, THE IRS LEARNS HOW TAXPAYERS AVOID COMPLIANCE BUT NOT HOW MANY TAXPAYERS ARE DOING SO. THIS IS BECAUSE IRS MUST TRY TO SELECT THE MOST PRODUCTIVE CASES FOR AUDIT AND INVESTIGATION TO MAKE THE BEST USE OF ITS FINITE ENFORCEMENT RESOURCES. OVER THE LONGER TERM, TO MEASURE TOTAL COMPLIANCE, IRS IS COMMITTED TO CONDUCTING A STUDY WHEREBY

EXAMINATIONS WILL BE UNDERTAKEN TO DETERMINE COMPLIANCE LEVELS OF CERTAIN EXCISE TAXES INCLUDING MOTOR FUELS. WE ARE CURRENTLY DEVELOPING A PLAN AND METHODOLOGY FOR CONDUCTING THIS STUDY.

RECENT COMPLIANCE INITIATIVES

IRS HAS TAKEN A NUMBER OF STEPS TO IMPROVE ENFORCEMENT OF THE GASOLINE EXCISE TAX. SOME OF OUR RECENT CRIMINAL ENFORCEMENT INITIATIVES INCLUDE:

1. FORMATION OF JOINT FEDERAL/STATE/LOCAL TASK FORCES TO INVESTIGATE AND PROSECUTE THESE OFFENDERS. APPROXIMATELY 26 AGREEMENTS HAVE BEEN ENTERED TO DATE BETWEEN IRS AND STATES TO FORM JOINT TASK FORCES.

2. FORMATION OF AN INTERNATIONAL TASK FORCE WITH CANADA AND CUSTOMS TO COMBAT "BOOTLEGGING". FOR EXAMPLE, GASOLINE HAS BEEN FOUND TO BE SMUGGLED INTO THE U.S. INSIDE MILK TRUCKS.

3. EACH IRS DISTRICT NOW HAS A CRIMINAL INVESTIGATION PROJECT COORDINATOR WHOSE FUNCTION IS TO WORK WITH EXAMINATION DIVISION AUDITORS TO IDENTIFY MAJOR EVADERS OF THE MOTOR FUEL EXCISE TAX STATUTES.

4. CURRENTLY, CRIMINAL INVESTIGATIONS ARE BEING CONDUCTED IN ALL SEVEN IRS REGIONS.

OTHER INITIATIVES TO IMPROVE COMPLIANCE

IN ADDITION TO THE STEPS I HAVE DESCRIBED, THE SERVICE HAS SEVERAL OTHER INITIATIVES UNDERWAY.

FOR FY 1991, THE EXAMINATION FUNCTION PLANS APPROXIMATELY A 50% INCREASE IN STAFFING IN THE EXCISE TAX AREA. A SIGNIFICANT PORTION OF THIS INCREASE WILL BE DEVOTED TO MOTOR FUEL EXCISE TAX EXAMINATIONS. SOME OF THE STAFFING WILL BE FUNDED THROUGH A MULTI-YEAR PROJECT WE ARE PRESENTLY WORKING ON WITH THE FEDERAL HIGHWAY ADMINISTRATION TO USE MONEY FROM THE HIGHWAY TRUST FUND

TO FUND IRS COMPLIANCE ACTIVITIES IN COOPERATION WITH STATE TAX AGENCIES. A MULTI-YEAR PROJECT WILL BE NECESSARY IN ORDER FOR IRS TO DEVELOP PROCEDURES, EXPAND THE EXCISE TAX COMPLIANCE PROGRAM AND TRAIN THE NECESSARY AGENTS TO CONDUCT THE EXPANDED PROGRAM.

IN THE FEDERAL/STATE AREA, COOPERATION BETWEEN IRS AND STATE TAX AGENCIES HAS BEEN SUBSTANTIAL AND WE ARE LOOKING AT WAYS TO IMPROVE THAT RELATIONSHIP. ALL IRS DISTRICTS HAVE FEDERAL/STATE EXCHANGE AGREEMENTS PROVIDING FOR THE EXCHANGE OF EXCISE TAX INFORMATION. ALL OF THE DISTRICT EXAMINATION DIVISIONS HAVE ESTABLISHED A LIAISON WITH THE STATE FUEL TAX AGENCY. JOINT MEETINGS WITH STATE FUEL TAX COUNTERPARTS ARE NOW BEING CONDUCTED BY MANY OF THE DISTRICTS ON A REGULAR BASIS TO EXCHANGE INFORMATION.

WE ALSO BELIEVE THAT COORDINATION WITH THE U.S. CUSTOMS SERVICE HAS AIDED AND WILL CONTINUE TO AID COMPLIANCE EFFORTS, BOTH IN OUR EXAMINATION AND CRIMINAL INVESTIGATION PROGRAMS. WHILE THE U.S. CUSTOMS SERVICE HAS BEEN COOPERATIVE IN PROVIDING INFORMATION ON IMPORTED PETROLEUM PRODUCTS TO IRS TAX EXAMINERS AND CRIMINAL INVESTIGATORS, THAT INFORMATION OBVIOUSLY HAS ITS LIMITATIONS WHEN INFORMATION IS NOT REPORTED TO CUSTOMS TO BEGIN WITH SUCH AS WITH SMUGGLING OPERATIONS.

CONCLUSION

MR. CHAIRMAN, THE IRS IS COMMITTED TO A SOUND ENFORCEMENT PROGRAM IN THE EXCISE TAX AREA. I BELIEVE THAT THE INITIATIVES IRS HAS TAKEN AND PLANS TO UNDERTAKE WILL ENHANCE OUR COMPLIANCE EFFORTS.

THANK YOU FOR THE OPPORTUNITY TO PROVIDE THIS INFORMATION. MR. ORTH, MR. BOLAND AND I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU OR THE MEMBERS HAVE.

STATEMENT OF RONALD IROFF

FUNDS ACCOUNTING BRANCH MANAGER

FINANCIAL MANAGEMENT SERVICE

U.S. DEPARTMENT OF TREASURY

FOR PRESENTATION BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

MAY 9, 1990

NOT FOR RELEASE BEFORE
10:00 a.m. May 9, 1990

Mr. Chairman, and Members of the Subcommittee:

I understand that the Subcommittee is interested in an explanation of the accounting functions performed by the Financial Management Service (FMS) on behalf of the Highway Trust Fund.

The Funds Accounting Branch is the accounting unit within the Financial Management Service which is responsible for maintaining the accounts of over 20 Trust Funds -- one of which is the Highway Trust Fund. One of the services we provide that may be of some interest to the Subcommittee is the preparation of the annual status reports which can be found in the quarterly Treasury Bulletin, published and compiled by the Financial Management Service. I have brought with me today that portion of the Bulletin on the Highway Trust Fund which includes the analysis of the status of the Trust Fund for Fiscal Year 1989, and should you approve, I would like to submit it for the record.

Managing the Highway Trust Fund

The Highway Trust Fund is made up of the Highway Account and the Mass Transit Account in accordance with Chapter 98, Section 9503, of the Internal Revenue Code as amended.

The Secretary of the Treasury is by law responsible for administering the Highway Trust Fund. The Financial Management Service (FMS), on behalf of the Secretary of the Treasury as administrator and manager for the Highway Trust Fund is responsible for:

o transfers of the excise tax receipts into the Trust Fund,

o investment of all receipts in non-marketable Public Debt securities issued to the Trust Fund,

o redemption of securities and transfers of amounts requested by the program agency as authorized by the Congress,

o and for the issuance of financial reports on the results of Trust Fund operations.

FMS and other Treasury Department entities maintain a close working relationship with a number of agencies in the Department of Transportation such as the Federal Highway Administration and the Urban Mass Transit Administration. As the program agencies, they are responsible for carrying out and administering programs such as the Federal Aid To Highways and Mass Transit which have been authorized by legislation to be funded by the Trust Fund.

Accounting for the Trust Fund is on an integrated cash and accrual basis. Accruals are made for investment interest receivable. All other income is recorded when deposited, transferred, or appropriated and expenses are recorded when paid (outlayed) by the program agency. Disbursements for Trust Fund programs are made by the program agency from transfer accounts funded by the Highway Trust Fund and managed by the program agency.

General ledgers for the Trust Fund are posted monthly from journal vouchers supported by the basic documentation which evidence receipts, payments and transfers affecting the Fund. Monthly status of account reports are prepared summarizing data from the Trust Fund general ledger.

The Secretary of Treasury is authorized to invest such portion of the Trust Fund as is not needed for current withdrawals. To maximize the fund's earnings, the FMS follows Treasury Fiscal Investment Policy. This is accomplished by investing all receipts to the Trust Fund and initiating redemptions for disbursement as needed. Investments are selected for redemption based on the FIFO method, i.e. first in first out, lowest interest rate, further maximizing earnings of the Trust Fund.

Legislation authorizes investments only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Obligations may be acquired in several ways: (1) original issue, at the issue price, (2) by purchase of outstanding obligations at the market price, or (3) by the issuance at par of special obligations exclusively to the Trust Fund under the Second Liberty Bond Act, as amended.

Obligations acquired by the Trust Fund other than special obligations may be sold at the market price. Special obligations may be redeemed at par plus accrued interest. The interest on the proceeds from the sale or redemption of any obligation held for the Trust Fund is credited to and forms part of the Trust Fund.

Investments of the Trust Fund are currently exclusively in Special Issue obligations known as Certificates of Indebtedness. Investments are made as receipts are identified as Trust Fund receipts and on the basis of estimated excise tax collections. Transfers to the trust funds of excise tax revenue are made based upon Treasury's Office of Tax Analysis's monthly estimates of the collections made through the Internal Revenue Service. The Financial Management Service accounts for and invests these amounts each month.

Actual collections are certified periodically by the IRS to FMS. FMS processes adjustments to the estimates based upon the IRS certification.

I hope I have fully described our responsibilities to the Trust Fund and the actions we take in its behalf. This concludes my remarks. I will be happy to answer any questions.

Highway Trust Fund

The highway trust fund was originally established on the books of the Treasury in accordance with provisions of the Highway Revenue Act of 1957, as amended (23 U.S.C. 12 note). It was reestablished on the books of the Treasury by the Surface Transportation Assistance Act of 1982, as modified by the Deficit Reduction Act of 1984 (Public Law 98-369, approved July 18, 1984), and subsequently by the Surface Transportation and Uniform Relocation Assistance Act of 1987. Amounts equivalent to taxes on gasoline, diesel fuel, special motor fuels, tires, tubes, tread rubber, commercial motor vehicles, truck use, lubricating oil, and parts and accessories for trucks, buses, etc., are designated by the act to be appropriated and transferred from the general fund of the Treasury to the trust fund. These transfers are made at least monthly on the basis of estimates by the Secretary of the Treasury, subject to adjustments in later transfers to the amount of actual tax receipts. Amounts available in the fund in excess of outlay requirements are invested in public debt securities and interest thereon is credited to the fund. There are also credited to the fund repayable advances from the general fund, as authorized and made available by law, to meet outlay requirements in excess of available revenues during a portion of a fiscal year, if necessary.

The termination date of the fund was extended to Sept. 30, 1993, as a result of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17, approved Apr. 2, 1987). Within the trust fund is a mass transit account, funded by one-ninth of the excise tax collections under sections 4041 and 4081 of the Internal Revenue Code (26 U.S.C.) imposed after Mar. 31, 1983. The funds from this account shall be used for expenditures in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964. The remaining excise taxes collected shall be included in a highway account within the trust fund, and expenditures for this account shall be made in accordance with the provisions of Public Law 97-424.

Amounts required for outlays to carry out the Federal-aid highway program are made available to the Federal Highway Administration, Department of Transportation. Other charges to the trust fund are made by the Secretary of the Treasury for transfers of certain taxes to the land and water conservation fund and to the aquatic resources trust fund, refunds of certain taxes, repayments of advances from the general fund, and the interest on advances.

Annual reports to Congress are required by 26 U.S.C. 9602 (a), Internal Revenue Code as amended, to be submitted by the Secretary of the Treasury, after consultation with the Secretary of Transportation. These reports cover the financial condition and the results of operations of the fund for the past fiscal year and its expected condition and operations during the next 5 fiscal years.

Results of Operations, Fiscal Year 1989

[Source: Financial Management Service]

Description	Internal Revenue Code section (26 U.S.C.)	Amount
Balance Oct. 1, 1988		$14 125 860 302
Receipts:		
Excise taxes (transferred from general fund):		
Trucks, buses, and trailers	4061 (a) (1)	27 487 667
Diesel and special motor fuels	4041 (a) (b)	4 375 470 944
Tires	4051 (a)	1 262 024 000
Gasoline	4081	10 542 040 714
Tires used on highway vehicles	4071 (a) (1)	318 044 765
Repealed taxes	4071 (a) (3)	-716,187
Use of certain vehicles	4481	608 314 083
Fines and penalties		4 278 550
Total taxes		16 584 918 342
Less: Transfer to land and water conservation fund	4081	1 000,000
Transfer to national boating safety facilities improvement fund	4041 (b)	110 917 000
Gross taxes		16 473 001 342
Less refunds of taxes (reimbursed to general fund):		
Gasoline used on farms	39 & 6420	284 871 290
Gasoline used for nonhighway purposes of local transit	6421	8 082 840
Fuel—taxicabs	6427	1 847,080
Commercial fishing vessels	4081 (a)	53 527 980
Gasohol (tax paid gasoline)	4081 (c)	53,136,540
Gasoline, other	6412	388 857,378
Aviation fuel—farms	4041	3 964,230
Diesel vehicle rebate	4041	36 172,630
Gas/diesel/alcohol mixtures	4081	1 898 120
Exempt use		13 196 908
Total refunds of taxes		845 123 302
Net taxes		15 627 878 040
Interest on investments		1 344,782 568
Total receipts		16 972 660 608

Description	Internal Revenue Code section (26 U.S.C.)	Amount
Expenses:		
Federal-aid highways		13,306,421,320
Right-of-way revolving fund		-11,240,834
National Highway Traffic Safety Administration		201,987,483
Trust fund share of highway programs		1,842,503
Baltimore-Washington Parkway		4,670,751
Highway safety research and development		10,436,474
Acceleration of projects		1,171
Highway-related safety grants		10,289,355
Overseas highway		4,589
Mount Saint Helens		908,771
Intermodal urban demonstration		4,321,985
Traffic control signal demonstration		78,436
Carpool and vanpool grants		92,498
Bicycle programs		2,047
National Park Service construction		12,821,778
Motor carrier safety grants		63,858,624
Mass transit		848,507,537
Safety improvement project		507,793
Safety economic development demonstration project		8,178,224
Theodore Roosevelt Bridge		26,030
Vehicular and pedestrian safety demonstration		243
Nuclear waste transportation safety demonstration		132,523
Total expenses		14,450,987,526
Balance Sept. 30, 1989		16,808,341,144

Expected Condition and Results of Operations, Fiscal Years 1990-94

[In millions]

Combined Statement (Highway and Mass Transit Accounts)

	1990	1991	1992	1993	1994
Balance Oct. 1	$16,808	$17,926	$19,412	$21,670	$24,621
Receipts:					
Excise taxes, net of refunds	14,747	15,113	15,646	16,076	16,443
Interest, net	1,316	1,502	1,505	1,744	1,631
Total receipts	16,063	16,615	17,151	17,820	18,074
Outlays	14,945	15,127	14,892	14,869	14,584
Balance Sept. 30	17,926	19,412	21,663	24,620	28,111

Mass Transit Account

	1990	1991	1992	1993	1994
Balance Oct. 1	$5,957	$6,943	$7,778	$8,556	$9,378
Receipts:					
Excise taxes, net of refunds	1,311	1,345	1,373	1,402	1,429
Interest, net	653	582	603	610	621
Total receipts	1,964	1,927	1,976	2,012	2,050
Outlays	978	1,093	1,198	1,190	1,227
Balance Sept. 30	6,943	7,778	8,556	9,378	10,201

Highway Trust Fund

Expected Condition and Results of Operations, Fiscal Years 1990-94--Con.

Highway Account

	1990	1991	1992	1993	1994
Balance Oct. 1	$10,351	$10,681	$11,826	$13,114	$15,243
Receipts:					
Excise taxes, net of refunds[1]	13,436	13,768	14,273	14,674	15,014
Interest, net[2]	863	920	902	934	1,010
Total receipts	14,299	14,688	15,175	15,608	16,024
Outlays	13,969	14,232	13,887	13,479	13,357
Balance Sept. 30	10,681	11,826	13,114	15,243	17,910
Unfunded authorizations (EOY)	21,869	21,644	20,798	18,521	17,828
24-month revenue estimate[3]	29,863	30,783	31,832	32,506	33,423

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[1] Refunds of taxes and transfer to other funds have been deducted.

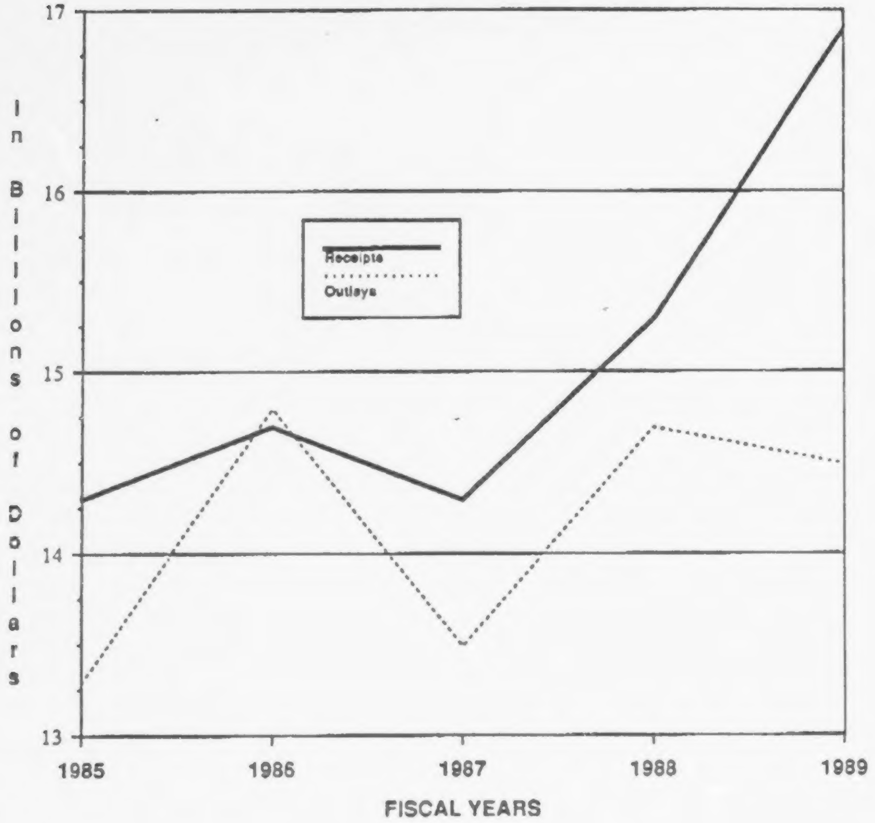
[2] Receipts of interest on investments netted by payment of interest on general fund advances.

[3] The Highway Revenue Act of 1982 requires that, before an apportionment can be made, projected unfunded highway authorizations at the close of the fiscal year must be less than the projected net revenues for the following 24-month period, and defines "unfunded highway authorizations" as the excess, if any, of (a) the total potential unpaid commitments as a result of apportionment to the States of the amounts authorized to be appropriated from the highway trust fund, over (b) the amount available in the highway trust fund at such time to defray such commitments.

Note.--Data is in conformance with the President's FY 1991 budget.

RECEIPTS AND OUTLAYS HIGHWAY TRUST FUND

Fiscal Years 1985-89



Statement of

GARTH F. DULL
DIRECTOR
NEVADA DEPARTMENT OF TRANSPORTATION

before the

Subcommittee on Water Resources, Transportation, and Infrastructure

of the

Committee on Environment and Public Works

U.S. Senate

May 9, 1990

GOOD MORNING, MY NAME IS GARTH DULL. I AM THE DIRECTOR OF THE NEVADA DEPARTMENT OF TRANSPORTATION. I WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO PRESENT OUR VIEWS ON THE STATUS OF THE HIGHWAY TRUST FUND AND RELATED FEDERAL-AID HIGHWAY PROGRAM FINANCING AND POLICY ISSUES.

SEVERAL YEARS AGO THE ISSUES YOU ARE ADDRESSING THROUGH THIS HEARING MIGHT HAVE BEEN OF INTEREST ONLY INSIDE THE BELTWAY AND IN THE COMMUNITY OF EXPERTS INCLUDING STATE TRANSPORTATION DIRECTORS. TODAY THERE IS A WIDESPREAD AWARENESS IN THE GENERAL POPULATION THAT: THE NATION'S HIGHWAY SYSTEM IS CRITICAL TO THE NATION'S ECONOMIC AND SOCIAL WELL-BEING; THAT THE HIGHWAY SYSTEM IS HEAVILY OVERLOADED AND DETERIORATING RAPIDLY; THAT MORE SPENDING IS NEEDED TO GUARANTEE A SATISFACTORY HIGHWAY SYSTEM; AND, THAT GAS TAXES CURRENTLY BEING COLLECTED BY THE FEDERAL GOVERNMENT FOR HIGHWAY FINANCING ARE NOT BEING SPENT.

EARLIER THIS YEAR WHEN NEVADA'S SENIOR SENATOR HARRY REID CONVENED A TRANSPORTATION SUMMIT IN LAS VEGAS FOR SOUTHERN NEVADA'S GOVERNMENT, BUSINESS AND CIVIC LEADERS, IT WAS STANDING ROOM ONLY. MEDIA COVERAGE WAS PROMINENT, POSITIVE AND DETAILED.

WHEN NEVADA SENATOR RICHARD BRYAN INTRODUCED HIS BILL (S. 2013) TO SPEND DOWN THE HIGHWAY TRUST FUND SURPLUS, SUPPORTIVE EDITORIALS APPEARED IN THE STATE'S MAJOR NEWSPAPERS AND NEVADANS

WHO A YEAR AGO HAD NOT HEARD OF THE HIGHWAY TRUST FUND APPLAUDED HIS INITIATIVE.

TODAY I WOULD LIKE TO SPEAK TO BOTH NEAR-TERM AND LONGER-TERM ISSUES RELATED TO THE FEDERAL HIGHWAY PROGRAM. IN THE NEAR TERM IT IS ESSENTIAL THAT WE USE THE RESOURCES THAT ARE IN HAND TO MEET OUR HIGHWAY NEEDS. FOR THE LONGER-TERM IT IS IMPORTANT THAT WE BUILD ON A HIGHWAY PROGRAM THAT HAS BEEN PHENOMENALLY SUCCESSFUL AND NOT DISCARD IT FOR ALTERNATIVES THAT COULD JEOPARDIZE THE INTEGRITY OF THE NATION'S SURFACE TRANSPORTATION SYSTEM.

HIGHWAY TRUST FUND

THE FIRST ORDER OF BUSINESS SHOULD BE TO SPEND THE MONEY THAT IS COLLECTED FOR HIGHWAYS. IRONICALLY, WHILE THE NATION'S HIGHWAYS DETERIORATE AT AN INCREASING RATE, THE HIGHWAY TRUST FUND BALANCE IS ALSO INCREASING. THE TRUST FUND HAS ACCUMULATED AN EXCESSIVE CASH BALANCE DESPITE UNIVERSAL AGREEMENT THAT URGENT HIGHWAY FINANCING NEEDS ARE UNMET AND DESPITE EVERYONE REALIZING THAT THIS BUDGET GIMMICKRY DOES NOT REALLY MAKE THE FEDERAL BUDGET DEFICIT SMALLER. TAXES COLLECTED FROM HIGHWAY USERS FOR THE SUPPORT OF TRANSPORTATION PROGRAMS SHOULD BE USED TO SUPPORT TRANSPORTATION AND SHOULD NOT BE USED TO DISGUISE THE ENORMITY OF THE FEDERAL BUDGET DEFICIT.

THE MOST RECENT DATA AVAILABLE SHOW NEVADA HAVING THE HIGHEST MOTOR FUEL TAXES PER 1,000 MILES (OVER $24). CLEARLY NEVADANS ARE DOING THEIR FAIR SHARE BUT THE FEDERAL GOVERNMENT IS NOT KEEPING ITS PART OF THE BARGAIN.

THE CURRENT BALANCE IN THE HIGHWAY TRUST FUND ACCOUNT IS AROUND TEN BILLION DOLLARS AND ON THE CURRENT POLICY TRACK WILL CONTINUE TO UNDERGO SUBSTANTIAL GROWTH. IN A RECENT GAO REPORT, THE FEDERAL HIGHWAY ADMINISTRATION ACKNOWLEDGED THAT, "...THE HIGHWAY TRUST ACCOUNT CAN SUPPORT A HIGHER PROGRAM LEVEL..." IT IS GENERALLY AGREED THAT THE HIGHWAY TRUST FUND COULD PRUDENTLY SUPPORT AN ANNUAL PROGRAM OF AT LEAST $20 BILLION FOR EACH OF THE NEXT FOUR YEARS WITHOUT GOING IN THE RED.

TO REMEDY THIS UNNACCEPTABLE SITUATION, I STRONGLY SUPPORT SENATOR BRYAN'S BILL THAT WOULD REQUIRE THAT THE SURPLUS IN THE HIGHWAY TRUST FUND BE EXPENDED FOR THE FEDERAL-AID HIGHWAY SYSTEM AND THAT IN THE FUTURE WOULD GUARANTEE THAT USER FEES COLLECTED FOR HIGHWAY FINANCING ARE SPENT ON HIGHWAY FINANCING IN THE YEAR THEY ARE COLLECTED.

IT IS DIFFICULT TO SEE HOW, ON THE MERITS, THIS PROPOSAL COULD BE OPPOSED. ALTHOUGH UNANIMITY ON PUBLIC POLICY ISSUES IS RARE, IT IS AT LEAST APPROACHED IN THIS INSTANCE. NEARLY EVERY GOVERNOR SIGNED A LETTER TO THE LEADERS OF THE CONGRESS CALLING

FOR A $15 BILLION HIGHWAY OBLIGATION CEILING FOR FY91 -- A MODEST AND PRUDENT PROPOSAL. THE MAJOR STATE AND LOCAL ASSOCIATIONS SUPPORT THIS PROPOSAL AS DO MANY OF THE HIGHWAY-RELATED INDUSTRY GROUPS. I AM TOLD THAT IT IS DIFFICULT TO FIND A MEMBER OF CONGRESS WHO DOES NOT AGREE, IN PRINCIPLE. IT IS TIME TO TURN THAT PRINCIPLE INTO PRACTICE AND SENATOR BRYAN'S BILL WOULD ACCOMPLISH THAT PURPOSE.

GOING FURTHER, I THINK THAT THE FEDERAL HIGHWAY TRUST FUND SHOULD BE MADE PERMANENT, REMOVED FROM THE UNIFIED BUDGET PROCESS AND RELEASED FROM OBLIGATION LIMITATIONS. A SMALL CASH BALANCE IN THE FUND IS PRUDENT TO INSURE THAT THERE IS SUFFICIENT MONEY TO REIMBURSE THE STATES. IN FACT, FEDERAL LAW REQUIRES THAT FEDERAL TRUST FUNDS NEVER OBLIGATE MORE MONEY TO THE STATES THAN IS EXPECTED IN REVENUES. BUT THE CURRENT BALANCE IN THE HIGHWAY TRUST FUND FAR EXCEEDS THE FEDERALLY-MANDATED MINIMUM.

REMOVING THE TRUST FUND FROM THE UNIFIED BUDGET PRODCESS WOULD ELIMINATE THE DECEPTION OF BUDGET DEFICIT REDUCTION AND INCREASE FUNDING FOR THE NATION'S CRITICAL TRANSPORTATION NEEDS. IN ADDITION, EXEMPTIONS FOR ALTERNATIVE FUELS SHOULD BE ELIMINATED. THE FREE MARKET SHOULD DICTATE FUEL USAGE DECISIONS AND NOT ARTIFICIALLY IMPOSED PRICE CONTROLS.

FEDERAL HIGHWAY SYSTEM

LOOKING TO THE LONGER TERM, THE FEDERAL HIGHWAY PROGRAM IS UP FOR REAUTHORIZATION NEXT YEAR AND A NUMBER OF PROPOSALS HAVE BEEN ADVANCED THAT WOULD RESULT IN MAJOR CHANGES. MY STARTING POINT IS THE OBSERVATION THAT IT IS HARD TO FIND A PROGRAM THAT HAS BETTER SERVED THE NATION THAN THE HIGHWAY PROGRAM. THAT LEADS ME TO THINK THAT CHANGES SHOULD NOT BE MADE WITHOUT VERY SERIOUS CONSIDERATION OF THEIR CONSEQUENCES; AND, THAT UPPERMOST AMONG THE STANDARDS THAT SHOULD BE USED IN ASSESSING PROPOSED CHANGES SHOULD BE THE QUESTION, HOW WELL WILL THE NATION BE SERVED? FUNDING AND MANAGING THE NATION'S HIGHWAY SYSTEM INVOLVES MATTERS THAT AFFECT INDIVIDUAL STATES AND LOCALITIES IN DIFFERENT WAYS, BUT ALL ARE BEST SERVED BY A SYSTEM THAT MEETS THE NEEDS OF THE NATION AS A WHOLE.

THE FEDERAL HIGHWAY SYSTEM HAS EVOLVED OVER A PERIOD OF MORE THAN 30 YEARS. IN ITS PRESENT FORM THE SYSTEM CARRIES THE LION'S SHARE OF THE NATION'S PASSENGER AND FREIGHT TRAFFIC. IT HAS SUCCEEDED BECAUSE IT HAS CARRIED THROUGH ON THE PROMISE OF A HIGHWAY SYSTEM WHICH CAN PROVIDE FOR THE MOVEMENT OF PEOPLE AND GOODS FROM FARM OR FACTORY TO MARKET AND FROM STATE TO STATE THROUGHOUT THE ENTIRE NATION.

PROPOSALS DEVELOPED BY THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS AND THE U.S. DEPARTMENT OF TRANSPORTATION WOULD ELIMINATE FROM THE FEDERAL AID PROGRAM THE SECONDARY AND URBAN SYSTEMS CATEGORIES AND A PORTION OF THE PRIMARY SYSTEM CATEGORY. NO LONGER WOULD FEDERAL FUNDS BE SPECIFICALLY PROVIDED TO ADDRESS EACH OF THE SYSTEMS.

THE FEDERAL HIGHWAY ADMINISTRATION PROPOSAL CALLS FOR A HIGHWAY SYSTEM OF NATIONAL SIGNIFICANCE WHICH WOULD CONSIST OF THE INTERSTATE SYSTEM AND A PORTION OF THE CURRENT PRIMARY SYSTEM. THE REMAINDER OF THE PRIMARY, SECONDARY AND URBAN SYSTEMS WOULD BASICALLY BE PART OF A "BLOCK GRANT" OR "TURN BACK" PROGRAM. THIS APPROACH WILL NOT MEET THE NEEDS OF MANY WESTERN STATES WITH VAST GEOGRAPHICAL AREAS, SMALL POPULATIONS AND LESS DENSE USAGE CHARACTERISTICS. IN NEVADA, OUR CURRENT 5,400 MILE FEDERAL AID SYSTEM WOULD BE SPLIT WITH 2,400 MILES IN THE SYSTEM OF NATIONAL SIGNIFICANCE (UNDER THE MOST OPTIMISTIC PROPOSAL) AND THE REMAINING 3,000 MILES LUMPED WITH NEVADA'S ADDITIONAL 45,000 MILES OF ROADS IN THE TURN BACK PROGRAM. A FORMULA WOULD PROVIDE FOR SOME REDISTRIBUTION OF FUNDS FOR THE HIGHWAYS OF NATIONAL SIGNIFICANCE AND THE REMAINDER BE RETURNED ON A DOLLAR-FOR-DOLLAR BASIS. I WILL SPEAK TO THE FUNDING ISSUES IN MORE DETAIL LATER.

THE STATE OF NEVADA BELIEVES THAT THE FEDERAL GOVERNMENT HAS A CONTINUING RESPONSIBILITY FOR THE INTERSTATE, PRIMARY, SECONDARY AND URBAN SYSTEMS AS THEY CURRENTLY EXIST. THESE SYSTEMS ARE NECESSARY TO MEET NATIONAL DEFENSE NEEDS AS WELL TO PROVIDES FOR THE MOVEMENT OF MATERIALS, PRODUCTS AND PEOPLE THAT UNDERGIRD OUR ECONOMY AND CONTRIBUTE TO THE STANDARD OF LIVING THAT AMERICANS WANT TO MAINTAIN. MANY OF NEVADA'S FEDERAL-AID SECONDARY SYSTEM ROADS FUNCTION AS PRIMARY ROUTES FOR INTERSTATE AND DEFENSE TRAFFIC. THE FEDERAL GOVERNMENT CANNOT DIVORCE ITSELF FROM THESE RESPONSIBILITIES AND MOST STATES CANNOT AFFORD THE TOTAL COSTS OF CONSTRUCTING AND PRESERVING THESE NATIONALLY IMPORTANT SYSTEMS.

STANDARDS

AN IMPORTANT CONSIDERATION IN CONNECTION WITH PROPOSALS TO DIVIDE THE NATION'S CURRENT FEDERAL-AID HIGHWAY SYSTEM INTO TWO CATEGORIES IS THE APPLICABILITY OF STANDARDS, SPECIFICATIONS, POLICIES AND CRITERIA FOR DESIGN, CONSTRUCTION AND MAINTENANCE. THE PROPOSALS ON THE TABLE WOULD MAINTAIN UNIFORM STANDARDS ONLY FOR HIGHWAYS CLASSIFIED AS NATIONALLY SIGNIFICANT. STATES WOULD NOT BE REQUIRED TO DESIGN OR CONSTRUCT OTHER HIGHWAYS CONSISTENTLY. EXPERIENCE TELLS US THAT THIS IS UNWORKABLE.

CONSISTENCY IS VITAL TO THE CONTINUITY OF THE NATIONAL TRANSPORTATION SYSTEM. IT GOES WELL BEYOND MATTERS OF APPEARANCE. CONSISTENCY CONTRIBUTES TO EFFICIENCY AND MOST IMPORTANTLY TO SAFETY. WITHOUT NATIONAL STANDARDS AND POLICIES, THE PROGRESS WE HAVE MADE IN REDUCED ACCIDENT AND FATALITY RATES WILL BE REVERSED. THE NEED FOR FLEXIBILITY TO MEET LOCAL SITUATIONS AND FOR COMMON SENSE TO PROPORTION COSTS TO BENEFITS CAN BE INCORPORATED INTO THE EXISTING PROGRAM WITHOUT WHOLLY ABDICATING A ROLE THIS IMPORTANT.

FUNDING

PROPOSALS THAT HAVE BEEN MADE TO CHANGE THE CURRENT METHOD FOR ALLOCATING HIGHWAY USER FEES TO THE STATES TEND TO WORK TO THE DISADVANTAGE OF STATES SUCH AS NEVADA AND WOULD REDISTRIBUTE FUNDS IN FAVOR OF THE MORE POPULOUS STATES. NEVADA, LIKE MOST LARGE, SPARSELY POPULATED STATES, HAS FOUND IT DIFFICULT TO MAINTAIN AN ADEQUATE HIGHWAY SYSTEM UNDER THE PRESENT FUNDING ARRANGEMENT, DESPITE HAVING THE HIGHEST GAS TAXES IN THE NATION. INSOFAR AS NEVADA IS UNABLE TO MAINTAIN ITS HIGHWAYS, NEVADANS WILL SUFFER BUT SO WILL THE NATION BECAUSE NEVADA IS AN IMPORTANT "BRIDGE STATE" WITHIN THE NATIONAL SYSTEM.

ONE PROPOSAL WOULD ASSIGN 60 PERCENT OF THE AVAILABLE FUNDS TO THE HIGHWAY SYSTEM OF NATIONAL SIGNIFICANCE (THE INTERSTATE AND PORTIONS OF THE PRIMARY SYSTEM). EACH STATE WOULD BE GUARANTEED TO RECEIVE 90 PERCENT OF THE USER FEES COLLECTED WITHIN ITS BORDERS. PRESENT LAW GUARANTEES EACH STATE AN 85 PERCENT RETURN OF USER FEES. THAT WAS INCREASED FROM 80 PERCENT IN 1982. THE REMAINING 40 PERCENT OF THE MONEY WOULD BE TURNED BACK TO THE STATES ON A DOLLAR-FOR-DOLLAR BASIS FOR USE IN CONNECTION WITH ANY PUBLIC ROAD.

IN NEVADA, UNDER PRESENT LAW, FEDERAL FUNDS MUST BE APPLIED TO 5,400 MILES OF HIGHWAY UNDER THE FEDERAL-AID SYSTEM. THIS SYSTEM CARRIES OVER 72 PERCENT OF THE VEHICLE MILES TRAVELED IN THE STATE AND OVER 90 PERCENT OF THE HEAVY TRUCK TRAFFIC. IN NEVADA THAT WOULD MEAN THAT THIS 40 PERCENT OF THE TOTAL WOULD BE AVAILABLE FOR ALL OF THE STATE'S 50,000 MILES OF ROADS. THIS WOULD SEVERELY AFFECT THE STATE'S ABILITY TO ADDRESS THE HIGHER VOLUME ROADS AND THE ROADS OF STATEWIDE AND NATIONAL SIGNIFICANCE. ADDITIONALLY, THE ABSENCE OF CATEGORICAL FUNDING COULD CONCEIVABLY DESTROY THE BALANCE THAT HAS BEEN DEVELOPED BETWEEN URBAN AND RURAL AREAS.

THERE ARE LEGITIMATE CONCERNS ABOUT INFLEXIBILITY IN THE EXISTING CATEGORIES BUT THESE PROBLEMS COULD BE REMEDIED BY CHANGES IN THE TRANSFER PROVISIONS OF THE CURRENT LAW, WITHOUT

INCURRING THE KNOWN AND UNKNOWN UNDESIRABLE CONSEQUENCES OF A TOTAL CHANGE IN PROGRAM STRUCTURE.

THE FEDERAL DEPARTMENT OF TRANSPORTATION IS CONSIDERING FEDERAL PARTICIPATION RATES THAT SIGNIFICANTLY INCREASE STATE MATCHING REQUIREMENTS. THIS PROPOSAL HAS THE SUPERFICIAL APPEAL OF SUGGESTING THAT MORE STATE AND LOCAL FUNDS WILL BE "LEVERAGED." IN PRACTICE THAT WILL NOT HAPPEN. STATES AND LOCALITIES ALREADY CARRY 80 PERCENT OF THE NATION'S HIGHWAY FINANCING BURDEN. IN STATES SUCH AS NEVADA, THE GAS TAX IS HIGH AND GOING HIGHER TO MEET THE REAL NEED, NOT TO CHASE FEDERAL FUNDS. IT IS POSSIBLE THAT SOME SMALL STATES MIGHT NOT BE ABLE TO MEET SIGNIFICANTLY HIGHER MATCHING REQUIREMENTS. IT IS MORE LIKELY, HOWEVER, THAT BECAUSE THE NEED IS SO GREAT STATES WILL BE FORCED TO MATCH FEDERAL FUNDS AND IN THE PROCESS DIVERT STATE GENERATED FUNDS FROM HIGHWAY MAINTENANCE. ULTIMATELY, THE PERVERSE RESULT WOULD BE A NEED FOR MORE FUNDS FOR RECONSTRUCTION.

AS I REMARKED EARLIER, NEVADA IS AN IMPORTANT BRIDGE STATE IN THE NATIONAL HIGHWAY SYSTEM. MUCH OF THE TRAFFIC ON NEVADA'S HIGHWAYS IS DESTINED FOR CALIFORNIA OR HEADED FOR POINTS EAST. NEVADA ALSO HAS A RELATIVELY SMALL POPULATION, A LARGE AREA AND A SMALL PRIVATE PROPERTY TAX BASE, BECAUSE 87% OF THE STATE'S LAND IS OWNED BY THE FEDERAL GOVERNMENT. SINCE THE FEDERAL HIGHWAY

SYSTEM CAME INTO EFFECT, NEVADA HAS RECEIVED OVER TWO DOLLARS FOR EVERY DOLLAR PAID IN USER FEES. NEVADA CURRENTLY RECEIVES APPROXIMATELY ONE DOLLAR AND THIRTY SEVEN CENTS FOR EVERY DOLLAR CONTRIBUTED.

IT IS EASY TO SEE WHY OTHER MORE POPULOUS STATES WOULD SUPPORT PROPOSALS THAT WOULD INCREASE THEIR SHARE OF THE FEDERAL HIGHWAY PROGRAM AND REDUCE NEVADA'S. EVERY STATE COULD PUT ADDITIONAL HIGHWAY FUNDS TO GOOD USE. HOWEVER, IF WE ARE TO MAINTAIN A FIRST-RATE NATIONAL SYSTEM OF HIGHWAYS THE ROLE OF THE BRIDGE STATES MUST BE RECOGNIZED. IT IS APPROPRIATE THAT STATES BENEFITTING FROM THIS BRIDGE FUNCTION SHOULD CONTRIBUTE TO IT. IT IS ALSO IMPORTANT THAT THE NEED FOR SOME REDISTRIBUTION THROUGH THE PROGRAM BE RECOGNIZED IN CASES WHERE A STATE'S USER FEES ALREADY ARE HIGH AND REASONABLE INCREASES WILL NOT GENERATE ENOUGH FUNDS TO MEET ITS BASIC HIGHWAY FINANCING NEEDS.

TAX COMPLIANCE AND EVASION

I WILL TURN NOW TO ONE OF THE SPECIFIC ISSUES OF INTEREST TO THE COMMITTEE, TAX COMPLIANCE AND EVASION.

THERE IS NO DOUBT THAT SIGNIFICANT FEDERAL HIGHWAY FUND REVENUES CURRENTLY ARE LOST BECAUSE OF LESS THAN COMPLETE

COMPLIANCE OR OUTRIGHT EVASION. AT PRESENT THE INTERNAL REVENUE SERVICE HAS NEITHER THE FUNDS NOR SUFFICIENT AUTHORIZED PERSONNEL TO MONITOR OR AUDIT HIGHWAY TAX PAYMENTS. THERE ARE MORE THAN 20,000 REMITTERS OF DIESEL TAXES, AND ALTHOUGH MOVING THE POINT OF GAS TAX COLLECTIONS FROM DISTRIBUTORS TO TERMINALS WAS SUPPOSED TO REDUCE THE NUMBER OF GAS TAX REMITTERS FROM 8,700 TO 900, IN FACT THE NUMBER IS NOW ABOUT 2,000 AND INCREASING. IT ALSO APPEARS THAT ORGANIZED CRIME IS NOW INVOLVED IN BUYING TERMINALS.

THERE IS NO CENTRAL COMPUTERIZED REPORTING SYSTEM BY WHICH THE IRS CAN AUDIT THE BILLIONS OF GALLONS OF FUEL FLOWING THROUGH HUNDREDS OF TERMINALS AND DIESEL DISTRIBUTORS. NOR IS THERE A SYSTEM FOR VERIFYING THAT GASOLINE PURCHASED BY SPLASH BLENDERS AT THE REDUCED RATE IS ACTUALLY BLENDED TO PRODUCE GASOHOL. NOR CAN THE RECORDS OF THE INDIVIDUAL STATES BE COMPARED ACCURATELY WITH FEDERAL RECORDS.

TO HELP RESOLVE THE TAX COMPLIANCE AND EVASION PROBLEM, I STRONGLY SUPPORT THE FOLLOWING RECOMMENDATIONS:

1. CREATE AN EXPERT WORKING GROUP TO WORK WITH CONGRESS IN IDENTIFYING LOOPHOLES AND SUGGESTING REMEDIES. THIS GROUP MIGHT CONSIST OF REPRESENTATIVES OF STATE TAX DEPARTMENTS, MAJOR

REFINERS, OIL MARKETEERS, INDEPENDENT TERMINAL OPERATORS, FHWA, IRS AND AASHTO.

2. AUTHORIZE THE FHWA TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE IRS TO ESTABLISH A SPECIAL UNIT WITHIN THE IRS TO FOCUS SOLELY ON THE COLLECTION OF HIGHWAY TAXES.

3. FINANCE THE IRS UNIT WITH ANNUAL FEDERAL HIGHWAY APPORTIONMENTS, PERHAPS ONE-TENTH OF A PERCENT.

4. INSTRUCT THE WORKING GROUP TO EXAMINE THE MERITS, COST AND PRACTICALITY OF INSTITUTING A CENTRAL, COMPUTERIZED FEDERAL FILE REPORTING SYSTEM. THIS WOULD NOT ONLY BE OF VALUE TO THE IRS, BUT PERHAPS TO THE STATES AS WELL.

5. THROUGH THE WORKING GROUP SEEK WAYS TO ENSURE CLOSER COOPERATION BETWEEN FEDERAL AND STATE COLLECTION AUTHORITIES, PERHAPS TO THE POINT WHERE THE STATES COULD ACTUALLY COLLECT FEDERAL DIESEL TAXES, RETAINING A PERCENTAGE TO COVER THE ADMINISTRATIVE COSTS AND TO IMPROVE AUDIT PRACTICES.

CONCLUSION

AS I REMARKED EARLIER, I THINK THAT YOU WILL FIND VERY LITTLE DISAGREEMENT ON THE PROPOSITION THAT HIGHWAY USER FEES SHOULD BE

SPENT ON HIGHWAYS AND NOT ALLOWED TO ACCUMULATE IN THE HIGHWAY TRUST FUND. ON OTHER ISSUES RELATING TO THE FUTURE STRUCTURE AND FUNDING OF THE FEDERAL HIGHWAY PROGRAM YOU WILL FIND LESS AGREEMENT. IT WOULD BE A MISTAKE TO THINK THAT THE EARLY POLICY DEVELOPMENT EFFORTS CARRIED OUT BY AASHTO, THE U.S. DEPARTMENT OF TRANSPORTATION AND OTHERS REPRESENT FINAL AND CONSENSUS POSITIONS THAT SHOULD BE ACCEPTED AS BLUEPRINTS FOR REAUTHORIZATION. ENOUGH DISAGREEMENT ON SPECIFIC ISSUES HAS BEEN EXPRESSED BY INDIVIDUAL STATES AND VARIOUS ORGANIZATIONS TO MAKE IT CLEAR THAT THOSE OUTSIDE THE CONGRESS ARE NOT IN FULL AGREEMENT AND THAT THOSE INSIDE THE CONGRESS WILL HAVE MUCH WORK TO DO.

IN MY VIEW THE CONGRESS SHOULD TAKE PRIDE IN THE HIGHWAY PROGRAM IT HAS ESTABLISHED AND I STRONGLY URGE YOUR FULL SUPPORT FOR A FUTURE FEDERAL AID PROGRAM WHICH WILL EMBRACE THE SAME BASIC SYSTEMS AND PROGRAMS. MANY IMPROVEMENTS CAN AND SHOULD BE MADE WHICH WILL INCREASE EFFICIENCY AND FLEXIBILITY WITHOUT SACRIFICING THE BASIC CONCEPTS THAT HAVE MADE THE CURRENT PROGRAM SO SUCCESSFUL.

I TRUST THESE COMMENTS WILL BE OF USE TO THE COMMITTEE AND I AM PREPARED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE NOW OR IN THE FUTURE. IN ADDITION, I WOULD ASK THAT I MIGHT RESPOND TO ISSUES OF INTEREST TO THE COMMITTE THAT I HAVE NOT ADDRESSED IN THIS STATEMENT IN A SUBSEQUENT SUBMISSION FOR THE HEARING RECORD.

Statement of
W. David Montgomery
Assistant Director
Natural Resources and Commerce Division
Congressional Budget Office

before the
Subcommittee on Water Resources, Transportation
and Infrastructure
Committee on Environment and Public Works
United States Senate

May 9, 1990

NOTICE

This statement is not available for public release until it is delivered at 10:00 a.m. (EDT), Wednesday, May 9, 1990.

Mr. Chairman and Members of the Committee, I am pleased to appear before you this morning to discuss the Highway Trust Fund and related policy issues. My testimony will review the financial status of the Highway Trust Fund, the effects of trust fund financing on the federal budget deficit, and the effects on budget priorities.

The Highway Trust Fund is essentially an accounting mechanism that records revenues from fuel and other vehicle taxes earmarked for the fund, spending from the fund on designated highway and mass transit programs, and interest on cash balances. The trust fund comprises two accounts--for highways and mass transit; this testimony focuses on the highway account.

FINANCIAL STATUS OF THE HIGHWAY TRUST FUND

The unexpended balance in the Highway Trust Fund represents the cumulative difference between receipts (tax revenues and interest) and outlays over the life of the fund; it does not show the current relationship between revenues from taxes dedicated to the trust fund and spending for highway programs.

Unexpended Balances

At the beginning of this fiscal year, the total unexpended balance in the fund was $16.6 billion, which included $10.6 billion in the highway account and $6.1 billion in the transit account. The balance in the highway account was accumulated largely in the 1970s, however, and is primarily attributable to the natural lag between commitments and outlays for federal highway programs. During the 1980s, outlays have exceeded tax revenues credited to the fund and have been roughly equal to total fund receipts. The unexpended balance has changed very little. As shown in the table, highway account outlays over the past decade totaled $113 billion, compared with tax revenues of $101 billion and total receipts of $111 billion.

Under the CBO baseline projections shown in the table, the unexpended balance in the highway account would grow very slightly over the next five years, reaching $11.5 billion by the end of 1995. Outlays for highway programs funded from the trust fund would increase each year from about $14 billion in the current year to about $16 billion in fiscal year 1995, largely because the projections assume that current program levels will be increased to keep pace with inflation. Total outlays over the five-year period are projected to be $89.8 billion. At the same time, receipts would increase less rapidly--from $14.5 billion in 1990 to nearly $16 billion in 1995, assuming extension of current taxes beyond their expiration at the end of fiscal year 1993. Tax revenues over the five-year period are projected to be $85 billion--

TABLE. FINANCIAL POSITION OF THE HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND
(In billions of current dollars)

Year	Receipts			Outlays	Change in Cash	Balance
	Tax Revenue	Interest Income	Total			
			Actual			
1980	6.6	1.0	7.6	9.2	-1.6	11.0
1981	6.3	1.1	7.4	9.2	-1.7	9.3
1982	6.7	1.1	7.8	8.0	-0.2	9.0
1983	7.8	1.1	8.9	8.8	a	9.1
1984	10.5	1.0	11.5	10.4	1.2	10.2
1985	11.6	1.3	12.9	12.8	0.2	10.4
1986	12.3	1.1	13.3	14.2	-0.9	9.5
1987	11.8	0.9	12.7	12.8	-0.1	9.4
1988	12.8	0.8	13.6	14.0	-0.4	9.0
1989	14.4	0.8	15.1	13.6	1.5	10.6
Total, 1980-1989	101.0	10.0	111.0	113.0	-2.0	
			Estimated			
1990	13.5	1.0	14.5	14.0	0.5	11.1
			Projected			
1991	13.7	1.0	14.7	14.4	0.3	11.4
1992	14.0	1.0	15.0	14.7	0.2	11.6
1993	14.3	1.0	15.2	15.1	0.1	11.8
1994	14.6	0.9	15.5	15.5	a	11.8
1995	14.9	0.9	15.8	16.1	-0.3	11.5
Total, 1990-1995	85.0	5.8	90.8	89.8	0.9	

SOURCE: Congressional Budget Office.

NOTE: Details may not add to totals because of rounding.

a. Less than $50 million.

about $5 billion less than outlays. Total receipts including interest are projected to be $90.8 billion.

Additional Spending

The size of the unexpended balance does not indicate whether the fund could sustain additional spending. There are outstanding commitments that must be paid from the trust fund balance. At the beginning of fiscal year 1990, unpaid commitments for highway programs totaled about $32 billion, compared with the unexpended balance of $10.6 billion. Thus, considerably more than the current balance has already been committed to future outlays.

New spending from the highway account is limited by a provision of law known as the Byrd amendment, which limits the amount by which unpaid commitments can exceed the cash balance (referred to as unfunded authorizations) to no more than the next two years' receipts (including interest). CBO expects receipts in fiscal years 1991 and 1992 to exceed the unfunded authorizations at the end of the current year by about $8 billion. This amount indicates the approximate level of additional spending that could be sustained by the highway account without violating the Byrd amendment.

Additional spending authorized by Senator Bryan's bill, S. 2013, would result in a level of unfunded authorizations that would trigger the Byrd amendment in 1993. This bill would authorize spending of $3 billion in each of three years for federal-aid highways in addition to amounts otherwise authorized. Assuming the bill is enacted early in fiscal year 1991, unfunded authorizations at the end of fiscal year 1993 would exceed estimated receipts for the following two fiscal years. The Byrd amendment would require that apportionments to the states at the beginning of that year be reduced by more than $1 billion. In addition, S. 2013 would result in a significant reduction in the cash balance of the highway account, not only by providing additional new spending authority but also by eliminating the ceiling on federal-aid obligations and allowing states to use unobligated balances of contract authority. Together, these actions could eliminate the entire cash balance.

Some people have questioned the need for maintaining a cash balance in the trust fund, because any shortfall in cash probably could be covered by an advance from the general fund. Such action, however, would entail a commingling of dedicated taxes and general funds, and might create confusion about how much of the funding for the highway system is financed through dedicated taxes. A cash balance can serve the useful function of preventing delays in disbursements if spending turns out to be higher than anticipated in any given year. Since spending from the trust fund depends on actions by state governments on many different projects, the exact timing of outlays is often difficult to predict.

EFFECTS OF TRUST FUND FINANCING ON THE FEDERAL BUDGET DEFICIT

The existence of the Highway Trust Fund as a distinct entity within the federal budget has raised questions about its effects on the budget deficit and about how spending and receipts are counted within the unified federal budget.

The presence of cash balances has led some people to conclude that the Highway Trust Fund is being used to reduce the federal deficit, that is, that the balance is being "hoarded" in order to make the deficit appear smaller than it is. This reasoning is not correct. The federal deficit is determined by the difference between the flow of total receipts (from all sources) to the Treasury and total outlays (for all purposes) from the Treasury. (Interest that is credited to the trust fund is an intragovernmental accounting transfer and thus is deficit neutral.) If, in any given fiscal year, outlays from the Highway Trust Fund are increased while revenues are not, the federal deficit is increased. As shown in the table, highway account outlays exceeded tax revenue in almost every year of the past decade and are expected to do so over the period 1990 to 1995, with the net effect of increasing the deficit.

Drawing down the trust fund balance would entail spending more from the fund than it receives in tax revenues and interest. The federal budget deficit would increase by the amount of any additional outlays, assuming that tax revenues do not increase. Enactment of S. 2013, for example, would increase federal outlays, and therefore the budget deficit, by at least $5 billion over three years. Changing highway spending or financing would have the same effect on the deficit whether the increases or decreases in spending or revenues occurred in the trust fund or the general fund.

Some people have suggested taking the Highway Trust Fund off-budget or removing its receipts and outlays from the Gramm-Rudman-Hollings deficit reduction targets and calculations. Taking the trust fund out of the unified budget would not change the amount of borrowing needed, but it would weaken the usefulness of the federal budget deficit in measuring the impact of federal policies on the economy. The purpose of the unified federal budget is to show total receipts and outlays encompassing the full range of federal activities in order to indicate the effects of government activities on the economy and on the Treasury's cash borrowing needs. There is no economic basis for distinguishing trust fund spending and receipts from other government spending and receipts.

As noted earlier, CBO expects highway account receipts (including interest) and outlays to be roughly equal, if current spending policies are maintained. Their inclusion in or exclusion from Gramm-Rudman-Hollings calculations, therefore, would make little difference for purposes of meeting the act's deficit reduction targets under CBO baseline assumptions. One point that would have to be clarified if the trust fund were removed from these calculations is the treatment of interest on the cash balance, which now is simply an intragovernmental transfer with no effect on the deficit. Removing from the calculations the interest received by the trust fund, but not the interest payments made to the fund by the Treasury, would increase the Gramm-Rudman-Hollings deficit.

EFFECTS ON BUDGET PRIORITIES

The existence of the Highway Trust Fund tends to focus public attention on the unexpended balance instead of on the relative merits and funding levels of alternative transportation or other spending programs. Given overall federal budgetary constraints, trade-offs must be made among all programs to see where on the margin the greatest benefits can be achieved. In addition to creating the incorrect perception that tax revenues are being hoarded to reduce the federal deficit, the unexpended balance also generates demands by the beneficiaries of these programs to release these trust fund resources and to increase spending on programs financed by the trust fund.

Decisions about additional spending on highways--as on any federal program--should be made on the basis of the benefits to be derived, not on the basis of available revenues. Limited budgetary resources should be allocated to programs and projects that yield the greatest net benefits to society. Information from the Federal Highway Administration indicates that investments in maintaining urban portions of the interstate highway system have very high returns and therefore would rank high relative to alternative programs competing for federal dollars. Such investments should be made regardless of the balance in the highway account of the trust fund.

As the economy changes and new technologies emerge, however, there may come a time when some investments in high-speed rail, telecommunications links, or other services would yield higher payoffs than most additional investments in the highway system. The amount of highway spending yielding returns as high as alternative programs might become small relative to the size of available funds in the highway account of the trust fund. Yet the existence of the cash balance could generate pressure to spend the balance on highway projects that provided fewer net benefits to society than alternative spending programs. Having money on hand and earmarked for a specific purpose does not guarantee that sufficient opportunities will exist to spend that sum profitably. To make positive contributions to economic well-being, spending decisions should be forward-looking, anticipating future benefits and returns on investment rather than spending accrued balances.

Revenue concerns also affect the size and uses of the trust fund. The earmarking of revenues from gasoline and diesel fuel taxes and other vehicle taxes for highway programs reflects an attempt to have users pay for the government services they enjoy. But these taxes do not reflect all of the costs that users impose on the highway system or on society as a whole, such as congestion and pollution. For instance, vehicles emit pollutants that are associated with a variety of health and environmental problems. Raising fuel taxes is a way of charging users for polluting the air. If pollution-related taxes on fuel were enacted, and if the revenues continued to be earmarked for highway spending, the result might be to build up balances in the highway trust fund that could be larger than the amounts needed to fund highway investments with returns comparable with other spending opportunities. There is no fundamental economic or governmental reason for earmarking tax revenues for specific purposes. Existing accounting systems are adequate to calculate how revenues from certain taxes compare with spending for particular purposes--the primary informational function of a trust fund--without creating incentives to spend whatever revenues are collected.

CONCLUSION

The Highway Trust Fund records revenues from fuel and other vehicle taxes earmarked for the fund, spending on certain highway and mass transit programs, and interest on the cash balance. The balance in the highway account largely reflects lags between commitments and outlays for federal highway programs. For purposes of measuring effects on the federal budget deficit, what is important is the relationship between current revenues and outlays, not the cash balance in the fund. Taking the fund off-budget would make the budget a less precise indicator of fiscal policy. Finally, the existence of the fund and the presence of cash balances can lead to pressures for spending that impede deficit reduction and distort budget priorities.

United States General Accounting Office

GAO

Testimony

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Operations of and Outlook for the Highway Trust Fund

Statement of
John W. Hill, Jr.
Associate Director, Transportation Issues
Resources, Community, and Economic
Development Division

Before the Subcommittee on Water Resources,
Transportation, and Infrastructure
Committee on Environment and Public Works
United States Senate

Mr. Chairman and Members of the Subcommittee:

I am pleased to have this opportunity to testify on the operations of and outlook for the Highway Trust Fund. As your Committee examines how best to use the revenues credited to the trust fund, items warranting attention include the unexpended balance as well as trust fund revenues that could be made available to meet our burgeoning surface transportation needs.

As you know, critical needs confront the nation's highway and bridge network. Yet, a $10.6 billion balance exists in the Highway Account of the Highway Trust Fund. Why? The primary reason is that limitations are placed on the amount of funds states are allowed to obligate. In addition, states have not used an estimated $1 billion in the trust fund revenues available to be obligated. According to state officials, they do not use these funds primarily because they provide a cushion against an uneven flow in federal funds.

Under recent projections, the trust fund balance at the end of its life will exceed outstanding commitments by an estimated $7.4 billion. After $1 billion authorized for emergency relief is deducted, a one-time increase in authorizations of $3.4 billion is possible. Such an increase still allows for a safety cushion of $3 billion in the fund--the maximum federal transportation officials believe is required to provide for unforseen disruptions to highway taxes or inaccurate revenue projections. Finally, to prevent future build-ups in the trust fund balance, obligation ceilings should more closely approximate expected income--revenues and interest--to the trust fund.

My testimony today will focus on the operations of the Highway Trust Fund, including yearly revenue and expenditure streams; reasons for the buildups in the fund's balance; and our observations on the process for drawing down the balances. Unfortunately, the severity of the general fund deficit has made the concept underlying trust funds--that revenues be spent for their intended purpose--quite different in reality, because various trust fund balances are used to mask the deficit. In the current budget environment, the reality is that any accelerated drawdown of the Highway Trust Fund balance can be accomplished only by increasing the deficit or at the expense of other federal programs.

I will now discuss the Highway Account.

HIGHWAY TRUST FUND--THE HIGHWAY ACCOUNT

The federal Highway Trust Fund was established in 1956 as a mechanism to support and expand the rapidly growing Federal-Aid Highway Program. The program includes the Interstate, primary, secondary, and urban highway systems, and accounts for over 80 percent of all vehicle miles traveled.

The trust fund is funded through user fees such as the federal 9-cent per gallon gasoline tax, taxes on tires, heavy vehicle-use taxes, and interest on the trust fund balance. This fund is used to reimburse state governments for money spent improving the federal-aid highway system. The federal government generally pays 75 percent of a project's cost, although for some projects, such as on the Interstate system, the federal share may be as high as 90 percent.

The trust fund is reauthorized periodically, most recently in 1987. The 1987 Highway Act authorized roughly $14 billion in funds for the Federal-Aid Highway Program for each year through fiscal year 1991. Most federal programs require congressional authorizations to be followed by appropriations that grant approval for spending or obligating program funds. Programs within the federal-aid highway system, however, generally bypass this two-step process. Rather, federal-aid authorizations are made available for obligation[1] without appropriations through what is called "contract authority."

However, not all authorized funds may be available in a given year for states' use. The Congress may impose obligation ceilings on authorized highway funds, which, according to the Department of Transportation (DOT), are part of an overall effort to control federal spending. For instance, while $22.1 billion was available for highway programs in fiscal year 1989, the obligation ceiling was set at $12.2 billion for that year. With the exception of $2.2 billion available for programs exempt from the ceiling, the total of states' commitments for highway projects could not exceed $12.2 billion.

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[1] An obligation is a commitment of the federal government to reimburse states for the federal share of a project's eligible cost.

Highway and Bridge Needs Are Escalating

Difficult decisions face the Congress on the amount of federal funds that should be directed to highway and bridge needs. For instance, the Interstate Highway System is vital to our transportation network, as it carries slightly more than 20 percent of vehicle traffic. DOT's statistics show that over 40 percent of the Interstate is in barely tolerable or worse condition. Further, the federal Interstate preservation program, commonly known as the Interstate 4R program, is currently funded at $2.8 billion a year, but DOT estimates $4.2 billion to $5.5 billion will be needed annually through the year 2005 in federal funds for this program, if the federal cost share remains the same.

In addition, the number of deficient bridges on the federal-aid system has grown since 1982. Bridge deficiencies on the federal-aid system increased from about 70,000 to 77,000 from 1982 to 1988, according to DOT's statistics. Much of this increase is due to the rapid growth in deficient Interstate bridges. Federal statistics show an increase in deficient Interstate bridges from approximately 4,900 in 1982 to almost 8,200 in 1988.

Build-up in the Highway Trust Fund Balance

In the first 12 years of its existence, the trust fund balance remained at $1 billion or less. (See fig. 1.) After a rapid growth in the 1970s, the balance peaked at $12.6 billion in 1979. Through fiscal year 1989 the trust fund has accumulated revenues and interest totaling $219.6 billion and has made available $209 billion to the states. The current trust fund balance is $10.6 billion, with projections estimating a 1991 trust fund balance of $11.6 billion.

The effect of trust fund revenues and expenditures on the trust fund balance is illustrated in figure 2. The rear block represents income to the trust fund. From 1983 to 1989 income to the trust fund has generally increased. The center section indicates expenditures from the fund that were at times greater than, equal to, and less than income. The solid black section represents the trust fund balance, which illustrates the excess of trust fund income over expenditures.

Since the beginning of the trust fund in 1956, the interest earned has totaled $14.7 billion through 1989. In recent years, interest earned has ranged from $800 million to $1.1 billion per year. We see no distinction in revenues credited from user receipts and revenues credited as interest income in terms of the amounts to be made available from trust fund balances.

Reasons for the Build-up in the Highway Trust Fund Balance

The Highway Trust Fund balance exists, in large part, because of funds that are not obligated for highway projects. These unobligated funds occur for several reasons. (See fig. 3.) A primary reason accounting for the Highway Trust Fund balance is congressionally established obligation ceilings, which constrain the federal funds available for states to spend on highway projects. The funds that are restricted from states' use accumulate in the trust fund, contributing to the growth in the fund's balance. In fiscal year 1989, the Highway Trust Fund balance was $10.6 billion and ceilings accounted for approximately $8 billion of the balance.

Another explanation for the trust fund balance is that states did not obligate approximately $1 billion in funds they had accumulated that were exempt from obligation ceilings. State officials said they have held on to these funds primarily to protect themselves against an uneven flow of federal funds.

Obligations Ceilings Constrain States' Spending

The authorization of federal-aid highway funds is not a guarantee that those funds will be available for states to use in a given year. In the late 1960s, the administration instituted impoundments, which temporarily forced states to delay obligations. About a decade later, these impoundments were replaced by congressionally set obligation ceilings. The effect was the same--both restricted states from obligating the total amount of funds authorized.

For instance, in 1983 the obligation ceiling, set at $12.4 billion, permitted states to spend close to the amount originally authorized by the Congress. In 1989 the obligation ceiling was set at approximately $2 billion below the original authorization, according to DOT records.

To exacerbate the situation, the funds that are restricted from obligation in 1 year carry over to the next year. Although these unobligated funds could be made available in addition to new authorizations in the next year, newly imposed obligation ceilings restrict states from spending these funds. (See fig. 4.) The result is that the margin between funds that states may obligate as defined by the ceilings, and the funds that could be available for state spending, continues to widen.

If the states were permitted to obligate more federal-aid funds, several indicators point to states' ability to provide the necessary matching funds. I would like to make note of two such indicators--annual requests for additional obligation authority and states' use of a procedure that enables them to start projects without obligating federal funds. A redistribution of obligation authority occurs annually after August, at which time obligation authority released by some states is given to states requesting additional authority. For fiscal years 1987 through 1989, states requested between $2.4 billion and $2.8 billion in additional obligation authority, although approximately $800 million was actually available for redistribution. Over the 3-year period, states' requests totaled nearly $8 billion.

States are able to advance the construction of approved federal projects prior to receiving obligation authority. In essence, under advance construction procedures states use their own funds until additional federal obligation authority becomes available. When it does become available, states convert the projects to the appropriate federal program categories and funds are obligated to cover the federal share of project costs. Since 1987 the advance construction balance ranged between $2 billion and $2.6 billion.

Some Highway Programs Are Exempt From Obligation Ceilings

The Congress also authorizes highway funds that it exempts from the obligation ceilings. When the Congress exempts programs from the obligation ceilings, it permits states to spend 100 percent of the funds authorized for that program. Exempt funds represent a small portion of the entire highway program. For instance, since 1983 the amount of funds not subject to obligation ceilings has ranged annually from approximately $700 million to $2.2 billion. The Congress may designate any number of programs as exempt and may change the categories from year to year.

The most significant exemptions from obligation ceilings, in dollar terms, are the minimum allocation program and demonstration projects. The minimum allocation program guarantees that states receive back at least 85 percent of their revenue contributions to the trust fund. In fiscal year 1990, 19 states received minimum allocation funds. Minimum allocation funds account for approximately 67 percent of the exempt funds in 1990, and demonstration projects account for 31 percent. The remaining 2 percent is comprised of a variety of small programs.

Although states are free to use all of these funds, the unused amount has grown from $0.2 billion in fiscal year 1983 to the fiscal year 1989 level of approximately $1 billion. (See fig. 5.) The bulk of this $1 billion is composed of minimum allocation funds, which, according to state transportation officials, are held by states as protection against an uneven flow of federal funds. Saving these funds is particularly attractive to states because minimum allocation funds may be used in a variety of program areas, unlike other highway funds, which are generally restricted to use within a specific road system.

The Fund Could Support a Higher Authorization Level

A common belief is that the trust fund balance represents a surplus. This view, however, is not accurate since the balance plus projected future revenues will be needed to cover commitments.

For instance, the fiscal year 1989 trust fund balance of $10.6 billion is needed to cover commitments (unpaid authorizations), but the trust fund balance is not sufficient to cover all outstanding amounts that were authorized through 1989. The authorized amounts outstanding, including those constrained from state spending through obligation ceilings, totaled about $31.6 billion in fiscal year 1989. Consequently, an apparent shortfall of $21 billion exists.

This situation, however, is permitted because when the Congress established the trust fund, it also established a safety mechanism to ensure that sufficient funds would be available to liquidate commitments at the end of each fiscal year. As revised by the Surface Transportation Assistance Act in 1982, the Byrd Amendment now permits the total projected commitments at the end of the fiscal year to exceed the trust fund balance so long as income projected for the following 2 years is sufficient to cover the difference.

In a May 1989 report to the Senate Appropriations Committee, we pointed out that the trust fund could support a higher level of program activity because future total revenues over the fund's authorized life are expected to exceed the level of future authorized commitments. At the time of our review, the anticipated amount of funds exceeding all commitments was $7.4 billion.

Federal transportation officials, however, believe that a safety cushion of between $1 billion and $3 billion would be necessary to guard against unforeseen disruptions to highway tax revenues or inaccurate revenue projections. Further, since the time of our review, $1 billion in Emergency Relief funds was authorized because of the highway and bridge damage caused by the October 1989 Loma Prieta earthquake in California. Assuming a conservative safety cushion of $3 billion and taking into account the additional $1 billion authorized, the trust fund could support $3.4 billion in additional authorizations.

Now I will address the Mass Transit Account of the Highway Trust Fund.

HIGHWAY TRUST FUND--MASS TRANSIT ACCOUNT

The Highway Revenue Act of 1982 established a special Mass Transit Account (MTA) in the Highway Trust Fund to fund several Urban Mass Transportation Administration (UMTA) grant programs, including the Section 3 Discretionary Grants and Section 8 Planning Grants programs. MTA receives revenues from 1 cent of the motor fuel tax. Through fiscal year 1991, MTA is expected to receive income of about $13.5 billion.

The Congress has provided permanent contract authority to obligate $10.4 billion of the $13.5 billion through fiscal year 1991. However, the annual appropriations process has placed limitations on obligations of the MTA funds to about $9.7 billion. Consequently, UMTA is not authorized to obligate about $3.8 billion.

UMTA is expected to obligate all of the $9.7 billion MTA funds authorized to be obligated and to incur expenditures totaling about $5.7 billion through fiscal year 1991. Therefore, about $4 billion of the obligations are not expected to be funded at the end of fiscal year 1991. These obligations will not be funded because obligated funds remain available until expended, and expenditures for some projects, such as construction of new transit systems, are incurred over a number of years.

Finally, the MTA balance at the end of fiscal year 1991 is expected to be $7.8 billion. However, about $4.0 billion of this balance is committed to prior years' obligations that have not been funded. As previously discussed, the remaining MTA balance consists of the $3.8 billion funds not authorized to be obligated.

This concludes my testimony. I will be glad to answer any questions at this time.

Figure 1

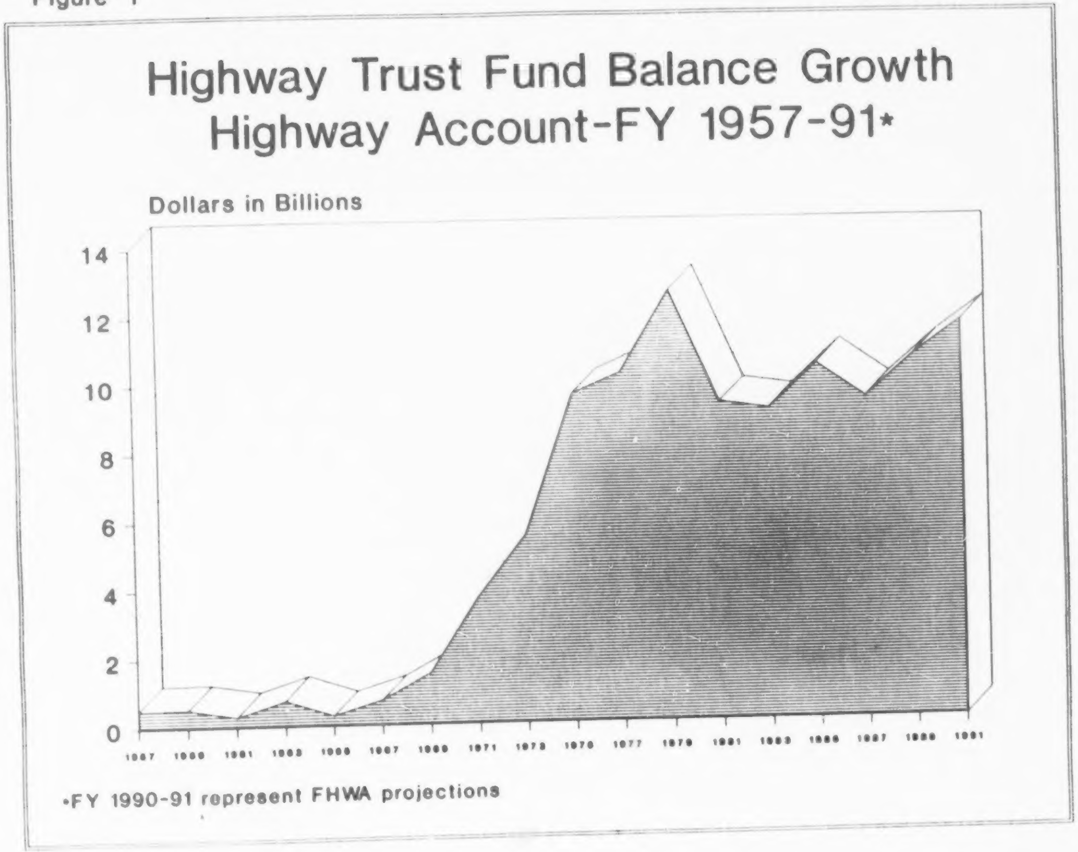
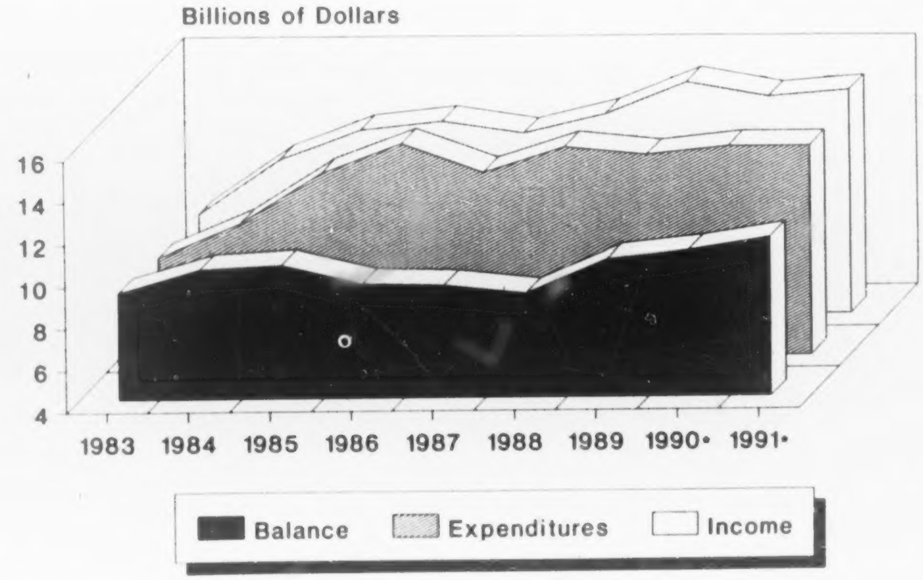

Highway Trust Fund Balance Growth
Highway Account-FY 1957-91*
Dollars in Billions
14
12
10
8
6
4
2
0
1957
1959
1961
1963
1965
1967
1969
1971
1973
1975
1977
1979
1981
1983
1985
1987
1989
1991
*FY 1990-91 represent FHWA projections

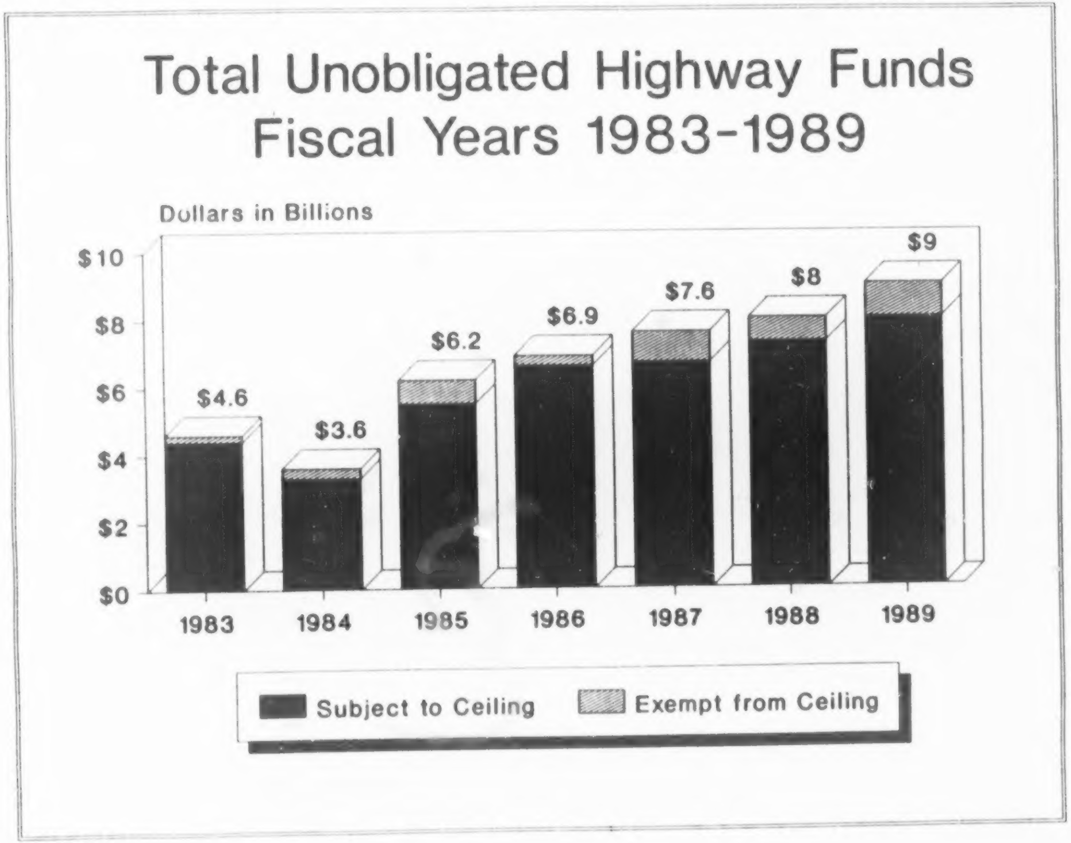
Figure 2

Change in Highway Trust Fund Balance
Highway Account-FY 1983-91



•Represents FHWA Projections

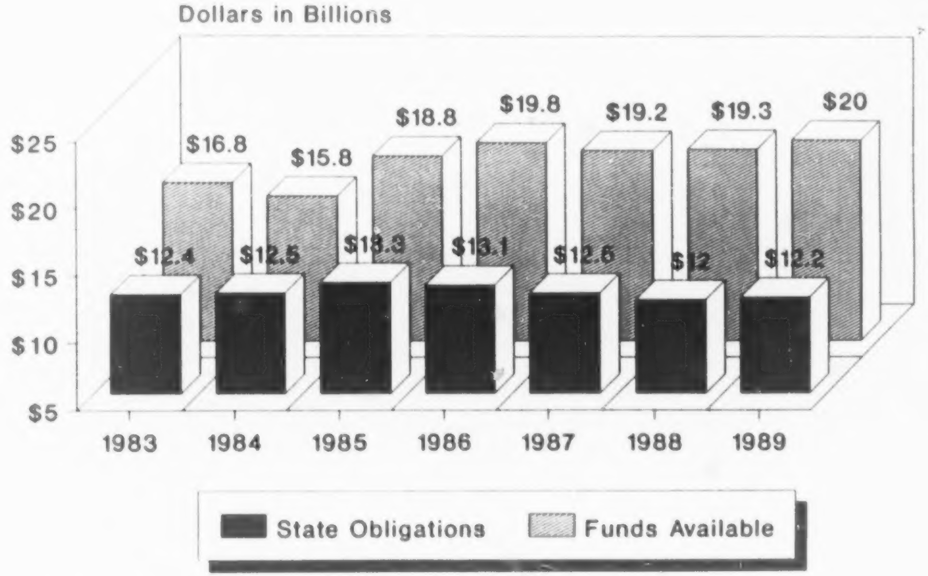
Figure 3



Total Unobligated Highway Funds
Fiscal Years 1983-1989

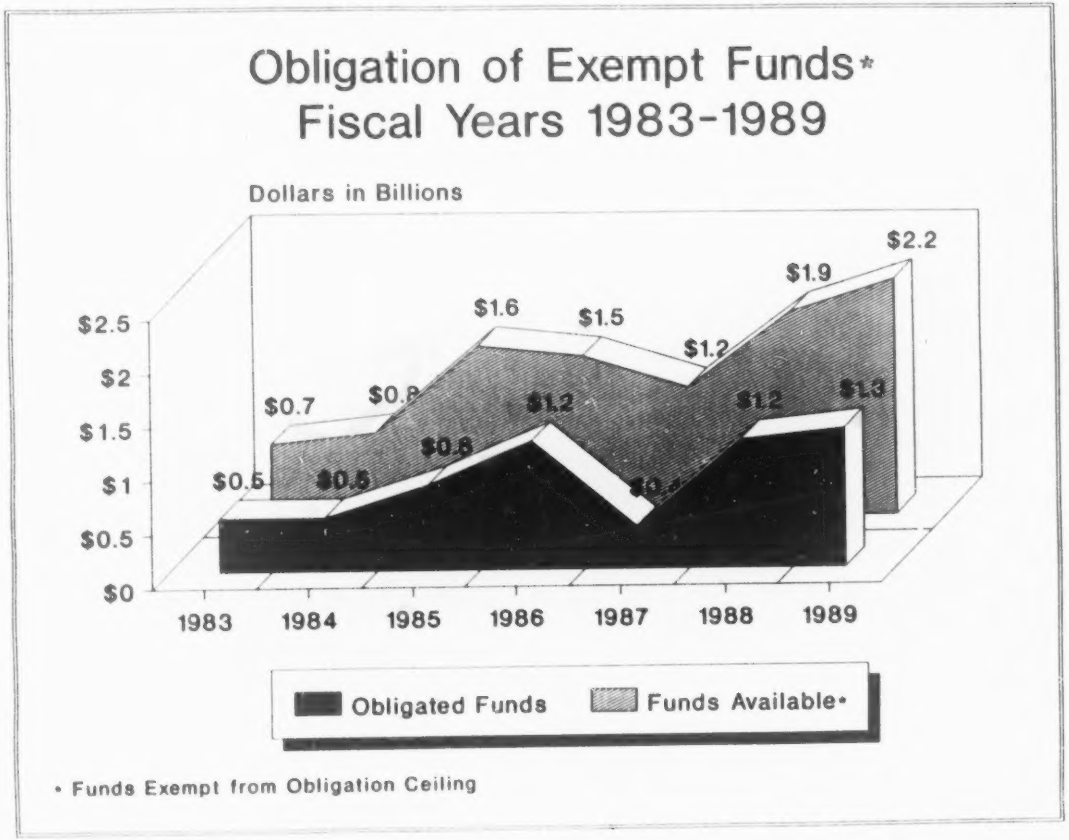
Figure 4

States' Expenditures of Available Funds*
Fiscal Years 1983-1989



* Funds Subject to Obligation Ceiling

Figure 5



Obligation of Exempt Funds*
Fiscal Years 1983-1989

* Funds Exempt from Obligation Ceiling

Highway
Users Federation
FOR SAFETY AND MOBILITY

Statement of

Lester P. Lamm, President

Highway Users Federation

to the

Water Resources, Transportation and Infrastructure Subcommittee

# of the

Environment and Public Works Committee

U.S. Senate

on the

Highway Trust Fund and Federal-aid Program Funding

May 9th, 1990

1776 Massachusetts Avenue, N.W. Washington, D.C. 20036-1993 (202) 857-1200

Mr. Chairman and members of the subcommittee, I am very pleased to be here today. I share the concerns you have expressed over the way in which the Highway Trust Fund is administered. I congratulate the subcommittee for holding this hearing and I appreciate this opportunity to discuss how best to utilize the revenues generated by the Trust Fund.

The Highway Users Federation is a national coalition of businesses, industries and associations, working to improve the safety and efficiency of America's highway transportation system. Our membership consists of more than 400 companies and associations representing 27 industrial and commercial categories, 63 state and local conferences, and 2,000 individual members. Our members, in turn, speak for more than 30 million commercial and private users of the nation's highway system. We are very pleased for the opportunity to express some of our concerns about the Federal-aid highway program

The Federation's members comprise the largest group of highway users and suppliers of highway services and products. By their highway usage, this group also represents the primary source of income for the Highway Trust Fund. In other words, our members are the principal payers of state and federal highway user fees.

Having paid the taxes, our members have a vital interest in seeing that the revenues are properly accounted for and returned to them in the form of better highways and safer transportation. Taxpayers need assurance that they are receiving full value for their taxes.

Mr. Chairman, as the primary architects of the highway program, you and your colleagues are well acquainted with the history of the Federal-aid highway program. Much of the current debate over the status of the Highway Trust Fund is centered around the context in which facts are stated rather than the facts themselves.

As an example, there is, in our opinion, an excessive balance in the highway trust fund. The administration states that there are outstanding commitments far in excess of the revenues in hand, and the balance is committed. While it is true that there are outstanding obligations, there is also the guaranteed future revenue stream from highway users to cover those obligations. To us, these tax collections continue for two years beyond the authorized program specifically to account for the unobligated funds. There is no need to maintain an enormous cash reserve as a hedge against this "hanging" debt. The one pertinent question is, "How much of a balance does the Trust Fund need for fiscal stability?" We need no more than 2 to 3 billion dollars, not $10 billion, not $17 billion.

Mr. Chairman, you have asked for a review of the highway financing process. The following paragraphs provides a very basic outline of the Federal-aid highway program and the Highway Trust Fund mechanism. An excellent source of information on this topic is a FHWA document entitled "Financing Federal-Aid Highways". We have drawn on this source in developing this testimony and recommend it highly to the members of the subcommittee and your staffs.

Mechanics of Highway Funding

Authorizations establish the funding limits for Federal-aid highway programs that FHWA can obligate the government to repay. As the subcommittee members are aware, it is the authorization levels that you will be establish in the highway program reauthorization act next year.

Most Federal programs require a two stage process to start a program, 1) Congressional establishment of the authorization, followed by, 2) appropriations, which provide the cash to fund the authorization.

The Federal-aid highway program is unusual in that it uses contract authority rather that budget authority to get the programs underway. In this process, the funds provided in the authorization can be obligated without an appropriation act. This is unfunded authority so appropriations are needed later to pay for the obligations incurred.

An obligation is a commitment of the Federal government to to repay a state for it's share of an eligible project's cost. The commitment is made when the FHWA approves a state's proposals to use part of its allocation or apportionment on a particular project. Once funds are obligated they are considered as "spent" though no funds have actually been transferred.

The Federal-aid highway program reimburses the states for expenditures they have incurred. The apportionment of authorizations provides a state a "line of credit" from which they draw on as projects develop. In general, states provide the "front-end" financing for projects and are reimbursed for the federal share as the work progresses. Depending on the type of project, the time between obligation and reimbursement can be from several days to several years. (See Table 1).

A typical payout schedule for a highway projects, assuming a straight line obligation rate, calls for a 17% reimbursement in the first year, roughly 52% of the payment in the second year, and 15% in the third and fourth years, respectively. The remaining 11% would be paid out in ever decreasing amounts in following years.

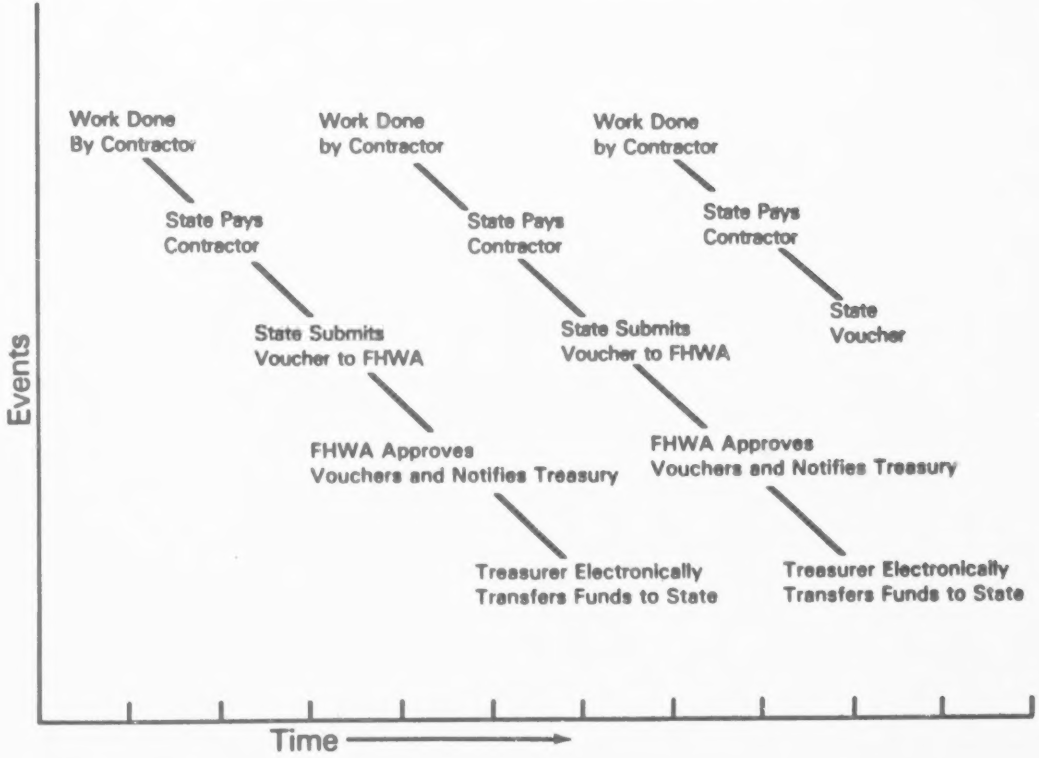
Apportionments are made by FHWA at the start of the fiscal year, through the issuance of certificates of apportionments, which document the amount of funds available to the State.

When allocations and apportionments are made, the amounts are added to the state's unobligated balances from previous years. Funding for various programs remain available for varying periods;

> Interstate funds - 2 years (apportioned 1 year in advance of the fiscal year for which they were authorized and remain available through that authorized year.)
>
> Interstate 4R - 3 years (apportioned 1 year in advance of the fiscal year for which they were authorized and remain available through the end of the following year.)
>
> Non-intestate funds - 4 years (apportioned in the year for which they are authorized and remain available for the three following years.)

Table 1

Reimbursement


Work Done
By Contractor
State Pays
Contractor
State Submits
Voucher to FHWA
FHWA Approves
Vouchers and Notifies Treasury
Treasurer Electronically
Transfers Funds to State
Work Done
by Contractor
State Pays
Contractor
State Submits
Voucher to FHWA
FHWA Approves
Vouchers and Notifies Treasury
Treasurer Electronically
Transfers Funds to State
Work Done
by Contractor
State Pays
Contractor
State
Voucher
Events
Time

Please refer to Table 2 for a graphic representation of the funding availability. If funds are not obligated within their period of availability, the authority lapses. No cash is returned to the government because none was ever disbursed. The funding for certain programs; Interstate, Interstate 4R, and Interstate substitutions doesn't lapse but can be distributed to other states which can make use of the funds.

The Federal-aid highway program is very complex to administer because of varied periods of availability for certain funds, the time gap between project starts and reimbursement to the states, and the fact there there are more than 500 accounts to keep track of. All of this leads to considerable uncertainty in the outlays of the highway program. The use of contract authority is very helpful to the states for highway planning and construction but it presents some difficulties for Federal budgeting and spending controls.

The obligation ceiling was instituted as a device to try and control the program, making it more responsive to budgetary concerns. It would be impossible to track and control the use of a particular year's funds, because of their multi-year availability. The obligation ceiling limits the amount of obligations which can occur in a particular year, regardless of the year in which the funds were apportioned or allocated.

The annual obligation ceiling is established by the Appropriations Committees with varying degrees of participation by the authorizing committees. This has led to large unobligated balances of funds (typically more than a full year's worth) being carried over from year to year. As of March 1990, the FHWA reports a total of $15.5 billion in unobligated balances (See Table 3).

Table 2

Availability

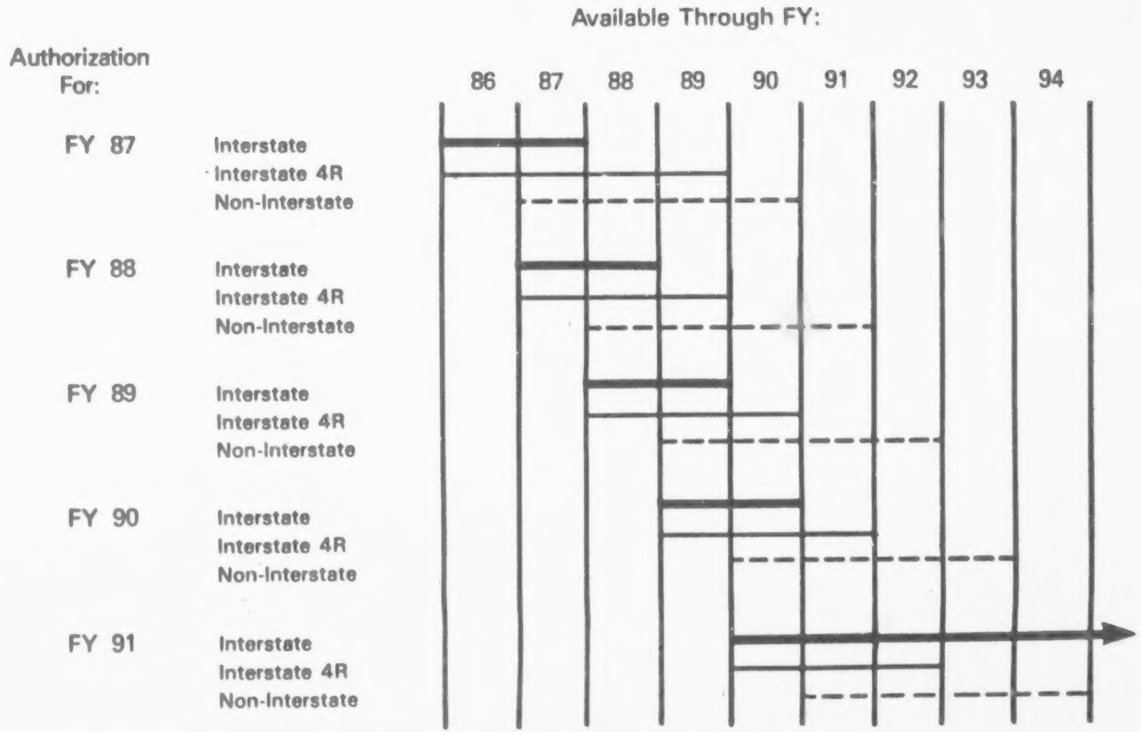


TABLE 3

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

TABLE 10-01 UNOBLIGATED BALANCES OF FEDERAL-AID HIGHWAY FUNDS
APPORTIONED OR ALLOCATED TO STATES

AS OF MARCH 31, 1990 LF07RS1A

	INTERSTATE	PRIMARY, SECONDARY URBAN AND BRIDGE	SAFETY CONSTRUCTION	FEDERAL LANDS AND OTHERS	TOTAL FEDERAL-AID ACCOUNT
ALABAMA	134,754,500.74	63,802,494.74	9,548,155.58	19,882,772.03	227,987,923.09
ALASKA	53,514,372.90	138,368,069.75	5,262,173.29	7,832,873.12	204,977,489.06
ARIZONA	19,801,300.16	147,480,157.10	13,134,500.42	27,097,917.46	207,513,875.14
ARKANSAS	66,822,968.94	52,549,799.81	7,437,681.00	46,204,664.57	173,015,114.32
CALIFORNIA	424,765,504.28	69,771,306.29	17,798,596.69	514,676,272.07	1,027,011,679.33
COLORADO	68,984,760.73	140,608,686.30	13,156,421.84	4,154,226.73	226,934,095.60
CONNECTICUT	20,246,667.48	106,940,101.41	5,301,851.86	156,176,792.78	288,665,413.53
DELAWARE	33,970,962.07	54,292,700.68	3,874,479.75	2,389,625.07	94,527,767.57
DIST. OF COL.	98,512,767.20	22,981,117.78	2,762,365.54	26,610,339.60	150,866,590.20
FLORIDA	112,289,859.00	264,685,028.57	9,373,085.00	136,737,581.61	523,355,554.18
GEORGIA	76,996,533.07	197,221,252.48	11,872,226.93	57,541,999.44	343,632,011.92
HAWAII	203,459,041.28	50,320,027.48	930,547.01	7,188,770.43	261,898,386.20
IDAHO	25,736,296.22	38,419,911.70	3,256,048.04	8,759,590.09	76,171,846.05
ILLINOIS	225,002,901.18	249,624,741.72	18,125,365.60	117,623,880.28	610,376,888.78
INDIANA	77,948,222.12	110,979,414.51	16,735,758.55	186,388,612.72	392,052,007.90
IOWA	29,652,184.25	74,856,478.81	15,861,228.57	69,956,389.73	190,326,281.36
KANSAS	38,818,049.77	140,710,796.66	8,390,019.85	13,007,646.21	200,926,512.27
KENTUCKY	40,654,336.21	110,375,491.55	6,364,961.66	17,038,020.01	174,432,810.29
LOUISIANA	188,784,615.56	264,718,948.40	11,811,900.33	25,582,108.86	490,897,573.15
MAINE	20,063,655.76	43,459,053.50	3,153,204.57	20,612,978.37	87,288,892.20
MARYLAND	182,162,324.62	133,396,241.01	8,653,645.00	127,450,474.99	451,662,685.62
MASSACHUSETTS	959,368,305.25	351,919,050.15	17,251,114.09	27,219,570.80	1,355,758,040.29
MICHIGAN	43,552,174.88	266,265,252.17	15,538,744.35	30,342,107.70	355,698,279.10
MINNESOTA	15,357,095.51	156,000,890.57	12,323,766.51	54,102,824.69	237,784,577.28
MISSISSIPPI	70,802,230.00	55,589,999.16	7,934,796.00	38,464,126.58	172,791,151.74
MISSOURI	75,013,510.15	133,864,085.24	10,508,365.04	92,634,108.21	312,020,069.14
MONTANA	74,508,860.80	65,230,255.62	9,551,995.24	8,249,336.98	157,540,448.64
NEBRASKA	672,773.02	65,894,044.28	12,857,134.30	647,926.43	80,071,878.03
NEVADA	31,801,481.00	36,639,381.96	1,326,799.00	7,169,622.79	76,937,284.75
NEW HAMPSHIRE	26,383,114.37	64,489,611.63	4,376,928.10	4,733,183.01	99,982,837.11
NEW JERSEY	137,029,510.31	209,804,902.04	11,886,514.94	105,400,953.30	464,121,880.59
NEW MEXICO	48,453,466.22	52,693,136.50	9,039,999.44	17,763,512.40	127,954,114.66
NEW YORK	78,989,068.25	359,307,688.80	19,914,181.00	309,273,062.09	767,484,000.14
NORTH CAROLINA	73,867,573.38	123,932,387.69	18,880,304.00	96,766,654.26	313,446,919.33
NORTH DAKOTA	29,476,370.61	33,557,508.91	7,438,996.26	6,788,568.00	77,261,443.78
OHIO	47,194,928.39	331,684,923.17	67,886,609.43	248,078,275.54	694,844,736.53
OKLAHOMA	79,060,471.08	101,460,910.15	10,972,204.57	28,035,049.52	219,528,635.32
OREGON	40,413,409.57	82,081,421.05	8,807,564.39	31,564,639.68	162,867,034.69
PENNSYLVANIA	88,235,620.96	325,256,574.79	27,355,502.79	78,083,761.69	518,931,460.23
RHODE ISLAND	54,119,411.06	28,229,407.04	4,561,294.52	37,485,096.64	124,395,199.26
SOUTH CAROLINA	50,132,063.34	149,842,024.58	17,020,139.84	105,521,711.24	322,515,939.00
SOUTH DAKOTA	28,260,531.96	52,332,176.00	3,819,126.36	5,077,669.13	89,489,503.45
TENNESSEE	64,750,990.00	136,223,245.63	6,060,164.64	66,875,517.75	273,939,918.02
TEXAS	371,150,419.12	84,117,774.82	18,621,672.13	351,260,276.10	824,535,142.17
UTAH	67,216,770.91	67,376,548.91	6,913,640.34	5,412,741.61	146,919,701.77
VERMONT	45,818,843.22	58,499,034.95	4,449,981.18	11,325,770.74	120,093,630.09
VIRGINIA	53,426,857.04	150,879,159.38	11,417,110.76	68,966,433.14	284,679,560.93
WASHINGTON	189,615,646.67	126,591,922.13	10,000,028.19	5,121,043.76	331,328,640.55
WEST VIRGINIA	60,507,972.41	144,358,126.53	8,193,302.28	14,025,389.22	227,084,790.44
WISCONSIN	47,298,019.06	75,286,132.00	13,779,623.68	32,998,834.70	169,362,609.44
WYOMING	25,289,487.48	63,995,041.77	2,459,273.00	12,138,460.52	103,882,262.77
AMERICAN SAMOA		675,468.00	983,056.70	15,808.00	1,674,332.70
GUAM		6,562,862.36	719,633.13	283,395.00	7,565,890.49
PUERTO RICO	16,426,275.05	74,936,115.08	2,264,438.50	1,540,887.90	95,167,717.53
N MARIANAS		1,630,177.66	284,059.49	57,778.94	1,972,016.09
VIRGIN ISLANDS		5,596,608.44	1,349,005.67	1,722,895.87	8,668,509.98
TOTAL	4,939,139,075.09	6,900,369,469.69	554,551,277.92	3,521,961,160.70	15,916,020,983.40

Another difficulty arises from the impact of the Gramm-Rudman-Hollings Deficit Reduction Act (commonly known as the Gramm-Rudman Act) on the multi-year financing of highway projects. The Gramm-Rudman Act is intended to force spending reductions in the following fiscal year. Yet most annual outlays for highways are the result of decisions made 4 and 5 years previously when projects were initially let. Because the payout for these projects is unevenly distributed over the years (as noted above, only 17% of the Federal cost is paid out in the first year of a project), to get a real outlay reduction in the current year, much greater cuts are needed in either authorization levels or the obligation ceiling. The rule of thumb calls for approximately $6 in program reductions to get a $1 reduction in the current outlays. Thus the highway program must suffer a tremendous cut to have any significant impact on early outlays.

Status of the Highway Trust Fund

The most recent Treasury report on the status of the Highway Trust Fund reports a total balance of $17.28 billion as of the end of February, 1990. This balance is made up of $10,635,535,500 in the highway account and $6,644,468,160 in the mass transit account. The Federation is concerned about the status of both accounts since the revenues for each are derived from highway users. The historical revenues attributable to both the highway and mass transit accounts are detailed in Table 4.

In recent years the administration has been calling their highway program proposals deficit neutral using a definition which holds total highway program outlays equal to the total highway tax revenues received for the period of the Surface Transportation and Uniform Relocation Assistance Act (STURAA), fiscal years 1987 through 1991, and not including interest on the Trust Fund balance as an item of income.

However, as the Subcommittee is aware, while the deficit is calculated on a simple income/expenditure basis for a single year, this approach doesn't work well when applied to activities like the highway program in which the government agrees in advance to pay for projects which will actually be paid for over the course of several years.

TABLE 4

TAX RECEIPTS AND INTEREST EARNINGS OF THE HIGHWAY TRUST FUND 1957-1988

(MASS TRANSIT ACCOUNT ESTABLISHED APRIL 1, 1983)

							HIGHWAY & MASS TRANSIT ACCOUNTS		
FISCAL YEAR	HIGHWAY ACCOUNT RECEIPTS (net excise taxes)	HIGHWAY ACCOUNT INTEREST EARNED	HIGHWAY ACCOUNT BALANCE	MASS TRANSIT ACCOUNT RECEIPTS (net excise tax)	MASS TRANSIT INTEREST EARNED	MASS TRANSIT ACCOUNT BALANCE	HIGHWAY TRUST FUND RECEIPTS (net excise taxes)	HTF INTEREST EARNED	HTF ACCOUNT BALANCE
1957	$1,482,002,222	$3,094,002	$516,335,489				$1,482,002,222	$3,094,002	$516,335,489
1958	$2,043,801,312	$17,686,110	$1,048,533,925				$2,043,801,312	$17,686,110	$1,048,533,925
1959	$2,074,116,121	$13,583,651	$523,657,274				$2,074,116,121	$13,583,651	$523,657,274
1960	$2,539,026,576	$1,854,801	$119,220,816				$2,539,026,576	$1,854,801	$119,220,816
1961	$2,797,537,781	$2,017,718	$299,062,675				$2,797,537,781	$2,017,718	$299,062,675
1962	$2,948,690,128	$6,772,167	$470,660,561				$2,948,690,128	$6,772,167	$470,660,561
1963	$3,278,697,756	$14,268,227	$746,926,044				$3,278,697,756	$14,268,227	$746,926,044
1964	$3,519,156,643	$20,361,229	$641,430,885				$3,519,156,643	$20,361,229	$641,430,885
1965	$3,658,509,171	$11,034,928	$284,857,512				$3,658,509,171	$11,034,928	$284,857,512
1966	$3,916,802,919	$7,983,465	$242,695,087				$3,916,802,919	$7,983,465	$242,695,087
1967	$4,440,862,147	$14,225,035	$725,196,037				$4,440,862,147	$14,225,035	$725,196,037
1968	$4,378,885,924	$33,502,527	$981,720,829				$4,378,885,924	$33,502,527	$981,720,829
1969	$4,637,176,055	$52,654,293	$1,520,407,737				$4,637,176,055	$52,654,293	$1,520,407,737
1970	$5,353,626,933	$115,409,815	$2,608,249,790				$5,353,626,933	$115,409,815	$2,608,249,790
1971	$5,541,555,876	$183,877,300	$3,651,695,549				$5,541,555,876	$183,877,300	$3,651,695,549
1972	$5,322,422,606	$205,629,972	$4,489,530,745				$5,322,422,606	$205,629,972	$4,489,530,745
1973	$5,665,453,719	$246,740,126	$5,590,688,429				$5,665,453,719	$246,740,126	$5,590,688,429
1974	$6,260,308,809	$414,667,245	$7,689,794,897				$6,260,308,809	$414,667,245	$7,689,794,897
1975	$6,188,172,949	$585,654,147	$9,597,389,516				$6,188,172,949	$585,654,147	$9,597,389,516
1976	$5,413,149,985	$586,713,896	$9,076,649,908				$5,413,149,985	$586,713,896	$9,076,649,908
'76 TRAN	$1,676,060,454	$13,372,307	$9,008,522,504				$1,676,060,454	$13,372,307	$9,008,522,504
1977	$6,709,230,589	$593,068,332	$10,163,645,958				$6,709,230,589	$593,068,332	$10,163,645,958
1978	$6,904,434,415	$662,159,977	$11,672,503,160				$6,904,434,415	$662,159,977	$11,672,503,160
1979	$7,188,812,309	$857,285,830	$12,564,460,399				$7,188,812,309	$857,285,830	$12,564,460,399
1980	$6,619,825,908	$1,027,483,811	$10,999,459,518				$6,619,825,908	$1,027,483,811	$10,999,459,518
1981	$6,304,926,148	$1,128,819,105	$9,259,442,811				$6,304,926,148	$1,128,819,105	$9,259,442,811
1982	$6,743,679,035	$1,078,501,607	$9,046,417,431				$6,743,679,035	$1,078,501,607	$9,046,417,431
1983	$7,777,015,540	$1,075,821,372	$9,061,617,527	$519,644,000	$2,546,830	$519,059,367	$8,296,659,540	$1,078,368,202	$9,580,676,893
1984	$10,506,579,002	$1,026,534,769	$10,210,492,723	$1,236,045,000	$89,140,574	$1,611,049,204	$11,742,624,002	$1,115,675,344	$11,821,541,928
1985	$11,799,995,178	$1,106,451,413	$10,360,790,188	$1,213,740,000	$206,225,528	$2,524,016,233	$13,013,735,178	$1,312,676,941	$12,884,806,421
1986	$12,251,415,239	$1,054,143,137	$9,485,989,478	$1,112,654,000	$282,769,075	$3,286,876,596	$13,364,069,239	$1,336,912,213	$12,772,866,075
1987	$11,793,498,220	$933,909,494	$9,411,558,985	$1,238,858,000	$343,855,189	$4,202,056,030	$13,032,356,220	$1,277,764,683	$13,613,615,015
1988	$12,836,427,110	$808,983,510	$9,019,107,657	$1,277,430,000	$383,749,555	$5,167,560,405	$14,113,857,110	$1,192,733,064	$14,186,668,062

HIGHWAYS

Total Receipts	Total Interest Earned
$190,571,854,779	$13,904,265,320

MASS TRANSIT

Total Receipts	Total Interest Earned
$6,598,371,000	$1,308,286,752

Total Receipts	Total Interest Earned
$197,170,225,779	$15,212,552,071

DATA FROM TABLE FE-10, HIGHWAY STATISTICS ANNUALS, 1957-88

HUF - REVISED
APRIL 17, 1990

A full accounting of Highway Trust Fund finances must consider not only the tax revenues from highway users, but the interest income accruing to the Trust Fund from investment of the Trust Fund balance. Since the fund was established in 1956, interest income has been credited to, and forms part of the Trust Fund revenue (Internal Revenue Code, Section 9602(b), 70 Stat. 374, Section 209(e)(4).

The 1991 DOT budget projects total Highway Trust Fund revenues of $16.614 billion, including interest. Outlays for 1991 are estimated to be $15.127 billion. (See Table 5) From our view, this is hardly "neutral". If true deficit neutrality were desired, total obligations could be increased to $16.6 billion. In fact, because of the lag in processing bills for payment, obligations could be increased to as much as $17.6 billion or more.

Because of this disparity, we support the current efforts of the National Governors Association and others to increase the FY 1991 highway program obligation ceiling to $15 billion. This action would have an immediate, positive impact on the level of work that the states could undertake while causing only a minimal impact in actual outlays. It would also represent a positive step towards an eventual draw-down of the Highway Trust Fund balances.

Making full use of these funds is an extremely important issue to the Federation since we have proposed a four-year highway reauthorization program which calls for annual funding of $22.9 billion for Federal-aid highways and transit through 1995. A brief summary of our proposed highway program reauthorization is attached for your information.

We believe these higher funding levels can be supported without an immediate increase in user taxes, but only if the balances in the Highway Trust Fund are used for their intended purpose and the special tax treatment of gasohol is eliminated.

An inherent element in our reauthorization proposal is the conversion of the Highway Trust Fund to a permanent status. There is a clear role for the Federal government in maintaining the access to and safety of, major transportation routes across the nation and we feel it is vital that the Trust Fund mechanism be continued. It seems to be the most efficient and equitable way to permit highway program beneficiaries to pay for the benefits they receive.

TABLE 5

TAX RECEIPTS AND INTEREST EARNINGS OF THE HIGHWAY TRUST FUNDS 1957-1989
(INCLUDES HIGHWAY AND MASS TRANSIT ACCOUNTS)

FISCAL YEAR	HIGHWAY TRUST FUND RECEIPTS	INTEREST EARNED	TOTAL HTF INCOME	OUTLAYS	TRUST FUND BALANCE
1957	$1,482,002,222	$3,094,002	$1,485,096,224	$965,666,734	$516,335,489
1958	$2,043,801,312	$17,686,110	$2,061,487,422	$1,511,602,876	$1,048,533,925
1959	$2,074,116,121	$13,583,651	$2,087,699,772	$2,612,576,423	$523,657,274
1960	$2,539,026,576	$1,854,801	$2,540,881,377	$2,945,317,835	$119,220,816
1961	$2,797,537,781	$2,017,718	$2,799,555,499	$2,679,713,641	$299,062,675
1962	$2,948,690,128	$6,772,167	$2,955,462,295	$2,783,864,409	$470,660,561
1963	$3,278,697,756	$14,268,227	$3,292,965,983	$3,016,700,500	$746,926,044
1964	$3,519,156,643	$20,361,229	$3,539,517,872	$3,645,013,032	$641,430,885
1965	$3,658,509,171	$11,034,928	$3,669,544,099	$4,026,117,472	$284,857,512
1966	$3,916,802,919	$7,983,465	$3,924,786,384	$4,036,948,809	$242,695,087
1967	$4,440,862,147	$14,225,035	$4,455,087,182	$3,973,425,968	$725,196,037
1968	$4,378,885,924	$33,502,527	$4,412,388,451	$4,170,961,431	$981,720,829
1969	$4,637,176,055	$52,654,293	$4,689,830,348	$4,150,994,422	$1,520,407,737
1970	$5,353,626,933	$115,409,815	$5,469,036,748	$4,381,613,816	$2,608,249,790
1971	$5,541,555,876	$183,877,300	$5,725,433,175	$4,685,348,327	$3,651,695,549
1972	$5,322,422,606	$205,629,972	$5,528,052,579	$4,690,217,383	$4,489,530,745
1973	$5,665,453,719	$246,740,126	$5,912,193,845	$4,811,036,161	$5,590,688,429
1974	$6,260,308,809	$414,667,245	$6,674,976,054	$4,575,869,585	$7,689,794,897
1975	$6,188,172,949	$585,654,147	$6,773,827,097	$4,843,089,343	$9,597,389,516
1976	$5,413,149,985	$586,713,896	$5,999,863,881	$6,520,603,490	$9,076,649,908
'76 TRANS	$1,676,060,454	$13,372,307	$1,689,432,761	$1,757,560,166	$9,008,522,504
1977	$6,709,230,589	$593,068,332	$7,302,298,921	$6,147,175,468	$10,163,645,958
1978	$6,904,434,415	$662,159,977	$7,566,594,392	$6,057,737,191	$11,672,503,160
1979	$7,188,812,309	$857,285,830	$8,046,098,139	$7,154,140,901	$12,564,460,399
1980	$6,619,825,908	$1,027,483,811	$7,647,309,719	$9,212,310,600	$10,999,459,518
1981	$6,304,926,148	$1,128,819,105	$7,433,745,253	$9,173,761,960	$9,259,442,811
1982	$6,743,679,035	$1,078,501,607	$7,822,180,642	$8,035,206,022	$9,046,417,431
1983	$8,296,659,540	$1,078,368,202	$9,375,027,742	$8,840,768,280	$9,580,676,893
1984	$11,742,624,002	$1,115,675,344	$12,858,299,346	$10,617,434,311	$11,821,541,927
1985	$13,013,735,178	$1,312,676,941	$14,326,412,119	$13,263,147,625	$12,884,806,421
1986	$13,364,069,239	$1,336,912,212	$14,700,981,451	$14,812,921,799	$12,772,866,074
1987	$13,032,356,219	$1,277,764,683	$14,310,120,902	$13,469,371,963	$13,613,615,014
1988	$14,113,857,110	$1,192,733,064	$15,306,590,174	$13,828,874,000	$14,186,668,000
1989	$15,627,877,000	$1,244,783,000	$16,872,660,000	$14,450,987,000	$16,608,341,000
	Total Net Receipts $212,798,102,777	Total Interest $16,457,335,070	Total Receipts $229,255,437,847	Total Outlays $211,848,078,943	RECEIPTS-OUTLAYS $17,407,358,905
Administration Projections from '91 Budget					
1990	$14,747,000,000	$1,515,500,000	$16,262,500,000	$14,945,530,000	$17,925,311,000
1991	$15,113,000,000	$1,501,200,000	$16,614,200,000	$15,127,314,000	$19,412,197,000

DATA FROM TABLE FE-10, HIGHWAY STATISTICS ANNUALS, 1957-88
1989-91 DATA FROM FY 1991 BUDGET

HUF - REVISED
02-May-90

We commend the Administration for recognizing in the national transportation policy, the need to invest in America's transportation and for the promise to "fully use the funds that people have paid in transportation user charges for investments in transportation." Our private sector members completely support the concept of greater public, private cooperation for a more effective future highway program. We will do our part to make this work.

While talking about fully utilizing the available funds, there is also the question as to whether the funds we have available fully represent the taxes paid by highway users? Between fiscal years 1986 and 1987 there was a strange drop in highway account revenues (see Table 4), despite significant travel increases and record numbers of truck sales and registrations in FY 1987.

There have also been suggestions that significant amounts of highway revenue have been "skimmed off" by organized crime through the use of false records and paper trails. We fully support the efforts that the FHWA is undertaking to work with the Internal Revenue Service and the various state tax authorities to improve the efficiency of the tax collection process. We urge to Congress to permit these efforts to continue.

Trust Funds Off-budget

There has been considerable interest in trying to remove the Highway Trust Funds from the unified Federal budget to protect the highway program from deficit reduction efforts as well as reducing the incentive for accruing large balances in the funds to offset the overall Federal deficit.

These concepts are embodied in S.2013, which would raise funding by $3 billion annually for a three year period, set future funding equal to Highway Trust Fund Income, and eliminate the obligation ceiling. This would be a very positive step forward. We might suggest that the bill sponsors specifically include interest income in the language, because of the current ambiguity as to whether HTF interest income is actually revenue. Also, it is not clear how the additional funds would be distributed, and for which programs. Raising the authorization levels does not, in itself, reduce the Trust Fund balance. In other words, the focus of this approach is positive but the details need further review.

Senator Symm's proposal would expand on S.2013 by increasing the authorizations for mass transit and aviation as well as for highways, and would remove the trust funds from the calculation of the Federal deficit for the purposes of the deficit reduction act.

The Federation strongly supports these proposals, as both would bring down the outstanding balances of the trust funds and allow the full use of the higher outlays.

The nation's well-publicized deficit difficulties may make the enactment of such proposals a time consuming and difficult, since removing the trust funds from the budget, even if only for the purpose of determining the deficit, would be viewed as having a direct impact on other Federal programs. This would present a very difficult decision for members of Congress in this era where proposals that raise costs or reduce revenue must be offset by comparable program reductions or new revenues.

An alternative course of action might be to establish a capital budget for the nation that would provide a better means for determining the value and status of our infrastructure and allow rational decisions to be made regarding the necessary investments to be made to maintain and enhance our public works. The concept would create a separate account for capital investments and operating expenses, as done in the private sector, state budgeting and even by many local governments. The operating budget could continue to be governed by Gramm-Rudman-Hollings or similar provisions, while fiscal stability would be assured in a different way, through a device such as the Byrd amendment in the case of the Highway Trust Fund.

This redefinition of the federal budgeting process would avoid presenting Congress with the difficult choices now faced, where any relaxation of the Trust Fund accounts appears to penalize other worthy programs.

Another concern the highway program is facing is the recurring suggestion that new fuel taxes be imposed with the proceeds used to reduce the federal deficit. The need to find new funds to offset as much as $75 billion of the early term deficit will influence proposals for such "quick and easy" taxes. We are concerned that the just-announced "budget summit" will be just one of the arenas in which it is discussed.

This subcommittee is particularly attuned to the crippling impact that a fuel tax for deficit reduction purposes would have on the highway program. Such a tax would impose significant costs on all highway users, directly through personal travel, and indirectly through the additional costs that vehicle manufacturers and the trucking industry would have to pass through to consumers.

Fuel taxes for deficit reduction purposes also create geographic inequities by imposing higher costs on the citizens of rural areas and western states who have to drive, and drive further, for the basic necessities of life, than those of us in urban areas. Tourism would also be hard-hit by a fuel tax increase for deficit reduction, injuring one of the major industries for every state in the nation. We appreciate the efforts of the Senator Symms and others of the committee who have have sponsored S.Res.63, opposing the use of fuel taxes for deficit reduction purposes.

Mr. Chairman, I have covered a variety of issues here and only briefly touched upon any of them. I would be happy to respond to any questions that the subcommittee may have. I appreciate this opportunity to appear before you today and we look forward to working closely with you in the coming months to develop a progressive and forward-looking highway program reauthorization. We are all aware that the Federal Highway Administration will apportion its final full year of funding less than five months from now. The countdown has begun.

May 1990

The Highway Users Federation's 9-point Highway Reauthorization Program

The Federation proposes a four-year reauthorization with annual funding of $22.9 billion for federal-aid highways and transit through 1995. We believe these funding levels can be supported without an immediate increase in user taxes, if balances in the Highway Trust Fund are used for their intended purpose and the special tax treatment of gasohol is eliminated.

1. Protect the Interstate System

Over the past 35 years, the United States has invested more than $133 billion to create the Interstate Highway System. Interstate highways carry more than 22 percent of all travel, though they consist of about one percent of the nation's road system.

The physical and operational condition of the Interstate System must be kept to a very high level through an ongoing program of restoration, rehabilitation, resurfacing and reconstruction. The Federation recommends that completion of the system be fully funded and an additional annual federal-aid commitment of $4 billion for these activities.

2. Create a National Arterial System

Another three to four percent of the nation's highway system carries another 30 percent of vehicle travel. A program is needed to upgrade these priority routes with safer designs, controlled access and additional lanes where needed and bypasses and arterial roadways in growth areas.

The Federation urges the maximum use of new engineering techniques to make travel on this National Arterial System safer and more energy efficient, help to reduce traffic congestion and help to improve urban air quality. The Federation recommends an annual federal-aid budget of $6 billion for this program

3. Restore Metropolitan Mobility

Throughout the U.S. there are areas where billions of dollars have been invested in homes, offices and factories but not enough in needed transportation infrastructure, including roads, bridges, parking facilities, traffic control facilities and public transit.

The Federation proposes a five-fold increase in the federal commitment to helping people "get around town" through a Metropolitan Mobility Program for areas with populations over 50,000. This would be a different type of program, reducing red-tape by allowing local authorities more flexibility to spend the funds on any surface transportation capital investment, provided that investment fits into a 10-year development plan developed locally and approved by the state. We feel this would reverse the past trend toward under-investment in transportation infrastructure and improve urban mobility.

The Federation recommends annual federal funding of $4 billion for these efforts from the Highway Trust Fund, coupled with $3 billion per year from general funds for high cost transit programs such as subway systems.

4. Connect Rural America

Access to major highways is critical to millions of Americans living on farms and in small cities and towns. Although daily traffic mileage on these non-arterial roads is small, the total sum of rural road mileage is large. These roads are vital to the distribution of produce from the nation's agricultural sector to consumers throughout the country.

Local governments cannot provide for our rural mobility needs alone; major assistance is needed to keep rural roads and bridges safe and serviceable. The Federation recommends the establishment of a Rural/Small City Program to support highway or public transportation improvements in rural areas and cities with populations below 50,000. The projects would be selected by local officials, following state-approved long-range improvement plans. federal-aid funding for this program should be $2 billion annually.

5. Keep Bridges Safe

Bridges are vital to all our road systems and the members of this Subcommittee are very familiar with the vast number of America's bridges which are outmoded, obsolete and increasingly unsafe.

The Federation proposes a state-managed bridge program which would use federal-aid funds to ensure that all highway bridges receive proper inspection, maintenance and rehabilitation or replacement, regardless of what system they might be on. We recommend annual federal-aid funding for this effort of $2.5 billion.

6. Improve Traffic Safety

The United States has the lowest highway fatality rate for travel of any industrialized nation in the world: 2.2 deaths per 100 million miles of travel. The number of traffic fatalities, exceeding 45,500 in 1989, is still too high.

While each of the elements of our proposed highway program would bring additional safety benefits, additional federal funding is justified to eliminate roadside hazards, improve signs, signals and markings, and to support non-engineering activities such as safety belt and child safety system use, alcohol and drugged driving countermeasures, driver education, traffic law enforcement and the regulation of commercial vehicles.

Speaking of safety belt use, the Federation and the auto industry, working with Traffic Safety Now, are proud of the role we played in bringing about passage of state safety belt use laws throughout the country. These laws are now in effect in 33 states and the District of Columbia, and the increased safety belt use they have produced has been credited with saving more than 10,000 lives. More can and should be done to increase enforcement of safety belt laws, and to bring about their passage in those states which do not have them. In this regard, we support the Administration's goal of increasing belt use from the current level of just under 50 percent to 70 percent by 1992.

7. Research and Development

Research can provide major dividends in the form of better highway operations and safety. We realize it is not possible in all cases to address traffic congestion through the addition of more lanes. We will have to augment traffic capacity through the use of new technologies which allow the road system to be used more efficiently and make it safer for all drivers.

The Federation recommends the establishment of a 10-year public/private development program dedicated to putting smart cars on smart roads, which will provide drivers with electronic aids to warn of hazards, give locations and provide destination headings in all weather and traffic conditions. The focus of this program should include the research and development of new technologies but also place as much emphasis on the implementation of current technology wherever possible. We recommend an annual federal budget of $100 million per year for the smart car-smart road program, to be matched by the commitments of private industry in a ten year program. Other FHWA research activities should also be expanded.

8. Develop Scenic and Public Lands Roads

Millions of acres of scenic and public lands should be opened to the American public and foreign visitors through the environmentally-sensitive development of recreational highways.

Tourism is a major source of income for many states and we recommend that the existing programs for the development of park, parkway, public land and scenic/recreational routes be closely coordinated with our suggested rural and arterial highway programs. The nation needs a coordinated program of scenic roadways to enhance tourism. Greater access to the nation's mineral, livestock and timber resources is also needed through the development of ecologically benign roads to remote areas. The Federation recommends $300 million in annual federal funding for the federal lands access efforts. The scenic roads program should be eligible for all regular federal-aid programs, rather than having a new program of specific funding.

9. Assure Better Planning

The $22.9 billion in total federal expenditures recommended under the Federation program demands more and better coordination of transportation and private development decisions to assure that both support community goals. This is a process which has failed too often in the past. It must be improved without eroding the rights of local citizens to decide their own development futures.

State and local planning should be strengthened by this proposal and federal-aid transportation projects would have to conform to an established long-range plan meeting specific, locally set development goals and priorities. This effort would be funded by an increased percentage of highway and transit program funds.

Funding Recommendations

While recommending higher expenditures for highways in order to meet existing and future highway needs, the Federation is not suggesting a change in the historical proportions of federal, state and local funding; that is, roughly, 25 percent from the federal government, 50 percent from state governments, and 25 percent from local governments.

We believe our recommended programs and funding levels can be supported through 1995 without any additional federal highway user taxes. It would require that current funds available in the Highway Trust Fund be fully utilized, elimination of the excise tax exemption for gasohol (almost $500 million in 1989), making full use of the interest earnings of the Trust Fund (more than $1 billion annually), and drawing the balance of the Highway Trust Fund down over the reauthorization period to a reasonable level of $2 to $3 billion. We believe any proposals to increase federal highway user taxes should be deferred until the present excessive Trust Fund balances are drawn down, and the funds productively used for their intended purposes. State and local governments can use this four-year "window" to reexamine and adjust their user fees if necessary to fund their portion of an expanded program.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

KERMIT H. JUSTICE, President
Secretary
Delaware Department
of Transportation

FRANCIS B. FRANCOIS
Executive Director

May 10, 1990

The Honorable Daniel P. Moynihan, Chairman
Water Resources, Transportation and
Infrastructure Subcommittee
SD-458 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

We appreciate the opportunity to submit the attached statement to be included in the hearing record of May 9, 1990 regarding the Highway Trust Fund.

We are concerned as to the future direction of the Trust Fund, which could have major impact on the states' ability to perform their responsibilities for maintaining our current highway system. Your time and effort in holding this hearing is greatly appreciated.

Very truly yours,

Francis B. Francois
Executive Director

FBF:BKH:mlm

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Executive Director

STATEMENT FOR THE

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

relating to hearing on

THE HIGHWAY TRUST FUND

by

Francis B. Francois,
Executive Director

American Association of State Highway
and Transportation Officials

May 9, 1990

Founded in 1914, AASHTO represents the departments concerned with transportation and highways in the fifty States, the District of Columbia and Puerto Rico, to foster the development, operation and maintenance of an integrated national transportation system. The active members of AASHTO are the duly constituted heads and other chief directing officials of the member transportation and highway agencies.

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On behalf of the American Association of State Highway and Transportation Officials, known as AASHTO, I am pleased to respond to the invitation of Committee staff to offer AASHTO's views on issues involved with the Federal Highway Trust Fund.

Let me first commend the Committee for establishing this hearing. The Highway Trust Fund has served America well since its beginning in 1956. But in recent years the States have encountered increasing problems in the administration of the Trust Fund, and accordingly we welcome this opportunity to offer our views.

In the Beginning

The Federal Highway Trust Fund originated when Congress enacted the Federal-Aid Highway Act of 1956, Public Law 627. Sec. 209 established the Highway Trust Fund, provided for the crediting to the Trust Fund of certain revenues, and set forth principles for managing the Trust Fund. The Act provided that the amounts in the Trust Fund would be available as provided by appropriation Acts to meet obligations of the Federal government incurred under the Federal-aid Highway Program.

To provide revenue to the Highway Trust Fund, a 3 cents per gallon fuel tax was established in 1956, which was raised to 4 cents in 1959, where it remained until enactment of the STAA of 1982.

A key issue today in the administration of the Highway Trust Fund is how the interest on the balances in the Trust Fund is to be handled. The 1956 Act provided that "It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgement, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States." The 1956 Act was very explicit on how the interest from such investments is to be treated, stating:

> "The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund."

When the Surface Transportation Assistance Act of 1982 was enacted, the tax on both gasoline and diesel fuel was increased, and the diesel fuel tax was later increased again in exchange for certain reductions in other truck-related excise taxes. These fuel taxes provide the large majority of revenue into the Highway Trust Fund. The STAA of 1982 divided the Highway Trust Fund into two accounts, a Highway Account and a Mass Transit Account, and included a provision that the revenue from one cent of each of the gasoline and diesel fuel taxes would be deposited to the Mass Transit Account for public transportation purposes.

Currently, the Highway Trust Fund is credited with highway user revenue from the following taxes or user charges:

- A 9 cent tax per gallon on gasoline, except for gasohol, which is taxed at 3 cents per gallon; the revenue from 8 cents of this is credited to the Highway Account, and from one cent to the Mass Transit Account.

- A 15 cent tax per gallon on diesel fuel; again, one cent of the revenue is credited to the Mass Transit Account, and the balance to the Highway Account.

  Together, these fuel taxes account for about 70 percent of the revenue to the Highway Trust Fund.

- A graduated tax on tires over 40 pounds in weight.

- A 12-percent tax on certain new trucks and trailers.

- A heavy vehicle use tax on trucks over 55,000 pounds in gross weight.

All of the above create a flow of revenue to the Federal government. In addition to this revenue, as provided by law the Highway Trust Fund is also credited with:

- Interest earned within the Federal government on the balance in the Highway Trust Fund, interest which in recent years has effectively not been expended resulting in today's Trust Fund balance.

The original concept of the Highway Trust Fund was that expenditures were to be limited by the amount of revenue flowing into the Trust Fund. The Byrd Amendment was enacted to limit annual spending authority extended by the FHWA to a level that could be liquidated from expected future revenues to the Trust Fund, so that the Trust Fund could not run a negative balance. For well over a decade the Highway Trust Fund functioned very effectively to provide Federal assistance to the States, in the manner of a true and independent trust fund. Highway users understood that the revenue from their Federal fuel taxes and other highway user fees were being deposited into the Trust Fund, that whatever interest was earned on unexpended revenue was accredited to the Trust Fund, and that both tax revenue and interest would be utilized only for highway purposes. During this period the Highway Trust Fund was separate from the rest of the Federal budget.

As the Committee is well aware, the Federal-aid Highway Program operates on the contract authority principle. Your Committee periodically generates authorizing legislation, which establishes the level of highway funding available to each State. Annually, and as directed by statute, these authorizations are allocated or apportioned to each State on October 1, giving that State what is called new obligation authority, which is added to the State's outstanding or unused old obligation authority. Obligation authority has a life of from two to several years, depending on the category of funding, when it will lapse if not used.

Each State then requests the approval of the Federal Highway Administration to obligate a portion of its total outstanding apportionments or obligation authority for specific Federal-Aid Highway projects, and when such obligation is approved there then in effect exists a contract between the Federal government and the State. With obligation in hand the State then proceeds with the highway project using its own funds, with the expectation that it will be reimbursed to the extent of the Federal match level attached to the project.

Under this contract authority concept, as the State completes the several stages of work on the highway project with its own funds it is periodically reimbursed by the Federal government, usually over a period of several years. It is only such reimbursements that result in the need for liquidating cash and actual Federal outlays, and because of the multi-year, contract authority nature of the Federal-aid Highway Program the Federal outlays in any given fiscal year are a composite of apportionments made and obligations extended during that year and for several preceding years, with the current year's obligations requiring only a fraction of the total outlay for the year.

Before exercising its obligating authority, until the invention of obligation ceilings, all the Federal Highway Administration really had to do was to be certain that the total expected obligations during the fiscal year would not violate the Byrd amendment constraint on the Highway Trust Fund. This process was relatively easy to administer, and during these years the Highway Trust Fund operated efficiently. Essentially full and immediate use was made of all the funds credited to the Highway Trust Fund, both highway user revenues and interest earned on any temporary balances in the Trust Fund.

During these years State highway agencies, Governors and State legislatures engaged in an orderly annual highway planning and programming process, knowing that they could rely on the levels of Federal-aid Highway Program funding authorized by the Congress. The States were aware of the expected level of Federal-aid support in advance of the need for matching State funding, allowing timely consideration and adoption of State highway budgets and the establishment of reliable programs. Local governments and the general public could rely on program projections, and generally knew with some certainty when highway facilities would be in place. Those engaged in the construction of factories, commercial centers and housing could plan their developments on the basis of projected highway construction, and the construction industry and its suppliers could plan ahead with a high degree of assurance. All of this helped assure the most effective and efficient use of both Federal and State highway funds.

Then came the invention of obligation ceilings, and the Unified Federal Budget.

Obligation Ceilings

The Federal deficit problem our nation faces today began during the Viet Nam war. In 1966, in an effort to control inflation and deal with wartime expenditures the decision was made by the Executive Branch to place controls on the need for liquidating cash in the Federal-aid Highway Program. The first obligation ceilings were imposed on the program, in the form of outright impoundments by the Executive Branch of appropriations made by the Congress. Through judicial action initiated by the States, the impoundment of Federal-aid Highway funds was found to be illegal, but the Executive Branch continued to seek ways to reduce highway program funding levels set by Congress.

In 1968 the Unified Federal Budget was created, and the Highway Trust Fund lost its off-budget status and was folded into the Unified Budget as if it were a normal grant or entitlement program. In 1974 the Congressional Budget and Impoundment Control Act was enacted, which gave Congress the authority to overrule impoundment actions of the Executive Branch. In 1976, Congress itself enacted the first obligation ceiling on the Federal-aid Highway Program.

The alleged purpose of the obligation ceiling is to control the requirement for liquidating cash during a given fiscal year, thereby controlling outlays and making them more predictable.

The actual result of obligation ceilings is to override the authorizing Committee with regard to the annual level of funding for the Federal-aid Highway Program, and consequent disruption of the highway planning and programming process at the State level.

The use of obligation ceilings is directly tied to the fact that the Highway Trust Fund is now part of the Unified Federal Budget, where it is regarded as simply another Federal program and not a Trust Fund program. Being part of the Unified Budget, outlays incurred under the Federal-aid Highway Program are regarded as a part of the outlays in the Unified Budget.

If the Highway Trust Fund had retained its off-budget status, then there would be no need, nor any justification, for annual obligation limits or ceilings. In its former off-budget status the Highway Trust Fund operated successfully for a decade. Along with many members of Congress, AASHTO believes that the Highway Trust Fund should return to its off-budget status, and that the use of obligation ceilings should be eliminated.

How does the use of obligation ceilings affect State transportation programs? Put simply, these ceilings are very disruptive to any orderly planning and programming process, and to the most effective and efficient use of highway program funding.

Typically, States begin the Federal-aid Highway program process on the basis of the authorized levels approved by Congress. These authorization levels are used in many States in working with local governments and the general public to develop multi-year highway projects, and are employed with the State legislature and the Governor for State budgeting purposes. When later on obligation ceilings are then imposed by the Congress that significantly lower authorized highway program levels, a State re-programming process must be undertaken. This is truly needless extra work that is costly, and which sometimes requires going back to local governments and citizens to advise them of project delays or possible cancellations. When this occurs the overall credibility of everyone involved, including members of Congress, is challenged.

Obligation ceilings make it difficult for State and local governments, contractors and all those who want to depend on orderly programming to be effective. They also waste funds that could instead be utilized to provide highway facilities in a timely manner.

It is AASHTO policy that Congress could make the Federal-aid Highway Program more efficient, effective and reliable by taking three specific steps. First, move the Highway Trust Fund off-budget. Second, make the Highway Trust Fund permanent. Third, eliminate the use of obligation ceilings, and let revenues to the Highway Trust Fund and the provisions of the Byrd Amendment control the highway program, as they once did for a decade. These actions would restore predictability and reliability to the Federal-aid Highway program, and help restore public confidence in government's ability to effectively do something about America's highway problems.

The Trust Fund Balance

As the members of the Committee are well aware, the use of obligation ceilings over the past several years has resulted in the build-up of a large balance in the Highway Account of the Highway Trust Fund. The following Table 1, while it includes necessarily inexact projections for the outyears, summarizes the past and projected performance of the Highway Trust Fund through the September 30, 1991 expiration of the authorizations made in the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987, and the September 30, 1993 termination of the highway user taxes enacted in the same Act.

Among the assumptions in Table 1 are these:

- The Highway Trust Fund is not renewed, but rather is allowed to run its course under the STURAA of 1987.
- No additional authorizations occur beyond those made in the STURAA of 1987, which extend through 1991 except for the Interstate program, which is authorized two years ahead in the STURAA.

The far right hand column of Table 1, labelled "Unpaid Author.," is the total of the outstanding unobligated authority being held by the States. These unobligated balances are regarded by the States as Federal commitments, and have occurred because of the practice of setting obligation ceilings in the Federal-Aid Highway Program at levels lower than the authorization levels established for the year.

TABLE 1

Past and Projected
Receipts and Expenditures in the
Federal Highway Trust Fund
(Highway Account)
(Dollars in Billions)

Year	Tax Income	Interest Income	Total Income	Total Expended	H.T.F. Balance	Unpaid Author.
1956-1986	-------	-------	$178.073	$168.606	$ 9.487	$29.535
1987	$11.793	$ .934	12.727	12.802	9.412	30.597
1988	12.836	.809	13.645	13.133	9.019	31.076
1989	14.359	.776	15.135	13.603	10.551	31.558
1990	13.436	.963	14.399	13.969	10.981	32.132
1991	13.768	.920	14.688	14.032	11.636	32.967
1992	13.597	.827	14.424	12.936	13.263	21.431
1993	13.736	.871	14.607	12.433	15.437	8.998
1994	.325	.742	1.067	4.220	12.284	4.778

Source: Based on Federal Highway Administration data, information from Federal Funds Information For States, and data and information from other sources.

The projected future year income entries are mid-year estimates, which are often adjusted in the first quarter of the following year. This accounts for the expected revenue in 1994, even though the Federal use taxes will have expired on September 30, 1993.

It is to be understood that actual Highway Trust Fund performance for the FY 1991-1994 period may well vary from what is shown, depending on several variables. Among those variables are the interest rate on Federal borrowing during the period, the possibility of additional Congressional authorizations, and the setting of a higher obligation ceiling for one or more of these years. Also not taken into account is the increase in projected FY 1992 highway spending contained in the recently approved House budget resolution, which could result in total highway spending of $15.1 billion, with the obligation ceiling being set at $13.3 billion as opposed to the $12.21 level contained in the President's budget.

But the message of Table 1 is clear. Even if the final 1994 projected Highway Trust Fund balance is off by $1 billion or more, the Highway Trust Fund would end up in 1994 with a true surplus that could be in the range of $5-8 billion. This finding is in full accord with that given to the Subcommittee on Transportation of the Senate Committee on Appropriations by Victor S. Resendes of the General Accounting Office, when he testified on May

11, 1989; his prediction was for a balance of $7.4 billion.

The message of Table 1 means that spending in the Federal-Aid Highway Program can clearly be greater than is now planned. As the Committee is aware, the National Governors' Association and other organizations are proposing an obligation ceiling of $15 billion for FY 1992, which the House moved toward in approving a $13.3 ceiling in the budget resolution. Clearly, the $15 billion obligation ceiling urged by the NGA could be easily supported.

All of this assumes that the interest income will both be credited to the Highway Account of the Highway Trust Fund, and expended. We believe that is clearly what the 1956 Act intended.

I want to make absolutely clear that AASHTO is not recommending that the Federal-aid Highway Program be allowed to expire in 1991, which is the scenario upon which Table 1 is based. To the contrary, the Association strongly supports that the Federal-aid Highway Program be continued, and funding increased. And as noted earlier, we support making the Highway Trust Fund permanent.

By making the Highway Trust Fund permanent and removing obligation ceilings, unobligated balances of authorizations carried by the States can be worked off over time. This is AASHTO's basic recommendation, and will assure equity to all States in that they will ultimately receive what was authorized for them by this Committee and the Congress. If these actions are not taken, then the unobligated balance problems may need to be addressed in another manner when new surface transportation legislation is enacted by the Congress. The Association is now working to develop recommendations in this area.

The Need For Greater Highway Resources

The fact is that the revenue to the Highway Trust Fund is not adequate to meet highway needs, and obligation ceilings and the balance in the Highway Trust Fund have made matters worse.

States have had to curtail their highway programs because of the Federal funds being withheld in the Highway Trust Fund. In February we made a survey of our member departments as the NGA was undertaking its campaign to obtain a $15 billion obligation ceiling for FY 1992, to determine if the States were prepared to respond to this increased funding level with highway projects and the necessary State matching funds. Nearly all States responded with a strong "yes," with the balance having some technical questions and needing a little time to be certain they could proceed.

AASHTO has prepared its recommendations for the next surface transportation assistance act, which are included in our "New Transportation Concepts For a New Century" report, copies of which have been provided to the Committee. In that report and our earlier "The Bottom Line" report, which has also been filed with the Committee, we found that the current $66 billion annual expenditure level on our 3.9 million miles of streets, roads and highways by all levels of government is not enough to even maintain current conditions, which would require some $80 billion per year. And if we want to begin to solve our capacity problems and address congestion, then we need to climb to the $100 billion level.

In our recommendations, we believe that the Federal-aid Highway Program should continue to provide at least its current percentage level of support to the nation's roads and highways. We recommend a highway program that would begin at $17.6 billion in FY 1992, and climb progressively to $25.9 billion in FY 1995, a level which should then be sustained.

The present and accumulating balance in the Highway Trust Fund could sustain at least the first two years of the program recommended by AASHTO, assuming that the final version of the Clean Air bill does not cause a revenue hemorrhage because of mandating gasohol as a fuel. If the current 6 cents per gallon gasohol exemption were repealed and if the estimated current $1 billion a year lost to the Trust Fund through fraud could be collected, then at least another year of our program could be funded before a tax increase was needed.

Level of State Effort

Before leaving the Highway Account of the Trust Fund, I would like to establish what the record of the States and the Federal-Aid Highway Program has been during the 1980's. This is reflected in the following Table 2, which is based on information taken from the FHWA's "Highway Statistics" publication.

TABLE 2

Comparison of Total State Highway Receipts With the Federal Portion Thereof and Average State Fuel Tax Levels

Year	Total State Highway Receipts	Total Federal Contribution In the Receipts	Federal % of Total State Receipts	Average State Fuel Tax
	(Billions)			(Cents per Gal.)
1980	$25.936	$9.696	37.4%	8.24
1981	25.413	8.456	33.3	9.11
1982	25.003	8.104	32.4	9.11
1983	26.916	8.724	32.4	9.83
1984	29.876	10.540	35.2	10.67
1985	34.862	12.746	36.6	11.11
1986	38.197	12.922	33.8	11.78
1987	39.620	12.240	30.9	12.81
1988	41.569	13.311	32.02	13.42

The FHWA has not yet released compilations beyond 1988. However, States have continued to increase their fuel taxes, while Federal-Aid Highway Program funding has remained essentially flat. As of 1990 the average State motor fuel tax is above 16 cents per gallon, and over a dozen States now have fuel taxes in excess of 20 cents per gallon. Since the Federal gasoline fuel tax was increased to 9 cents per gallon in 1983, there have been over 90 actions in State legislatures increasing State fuel taxes. Clearly, the States have been and are continuing to carry their fair share of the costs of America's highway system.

Before leaving Table 2, I want to point out that it only contains information on the State-Federal relationship in the Highway Account. Revenues of local governments, and contributions from the Federal-aid Highway Program toward local government road and highway needs, are not included in the Table.

The Mass Transit Account

Turning now to the Mass Transit Account of the Highway Trust Fund, the picture is similar to that of the Highway Account. From the beginning of the Mass Transit Account in FY 1983 through FY 1990, about $9.032 billion in revenue has been attributed to the Transit Account. The following Table 3 illustrates recent performance of the Transit Account.

TABLE 3

Past and Projected Income
and Balances for the
Mass Transit Account of the
Highway Trust Fund

(Dollars in Billions)

Year	Tax Income	Interest Income	Total Income	M.T.A. Balance
1989	$1.269	$.469	$1.738	$6.057
1990	1.311	.552	1.863	6.944
1991	1.345	.581	1.927	7.776
1992	1.408	.771	2.179	9.386
1993	1.432	.843	2.275	10.477
1994	1.454	.907	2.361	11.564

Source: Years 1989-91 taken from 1991 Administration budget
Years 1992-94 taken from CBO tables

In its baseline projections, the CBO report from which years 1992-94 of Table 3 are taken indicates a commitment of $6.002 billion against the 1994 MTA balance of $11.564, which would leave an uncommitted balance of $5.562 billion in the Transit Account. Again, as with the Highway Account, much of the uncommitted balance remaining in 1994 will be as a result of interest credited to the Transit Account.

We believe it was the clear intent of Congress in 1982 that the full Mass Transit Account funding should be utilized in support of public transportation. This has not occurred, and in fact over the 1980's there has been a sharp decline in overall Federal spending for transit. This has clearly harmed America's public transportation system, at the very time when because of urban congestion and the need to improve air quality more - not less - support for public transportation is required.

As the Association has testified in Congress, we believe that the Federal role in transit should be increased, not decreased. Specifically, we have recommended a Federal transit capital program beginning at $3.5 billion in FY 1992, and climbing to $5.0 billion by 1995, in addition to continuation of operating assistance.

As with the highway program, the States have been carrying their fair share of the cost of subsidizing public transportation. While the Federal program has been declining during the 1980's, collectively the States have been increasing their support for transit, to the point where total State support now exceeds the Federal program. Attached is a copy of Table 3 from our 1989 "Survey of State Involvement in Public Transportation" report, which shows total annual State financial assistance to public transportation over a three year period. As stated on this Table 3, total State support increased over the three year period from $3.57 billion in FY 86-87, to over $4.224 billion in FY 88-89.

The accumulated balances in the Mass Transit Account ought to be expended. There is no valid excuse for not doing so. These revenues were collected from highway users, with the pledge that they would be utilized for transportation purposes, not to balance the Federal budget. Because they have not been spent, the nation's public transportation agencies have not been able to provide the level of facilities and services intended by the Congress in the STAA of 1982 and the STURAA of 1987.

Removal of the Highway Trust Fund From the Unified Federal Budget

Lying at the root of the large balance carried in the Highway Trust Fund is its presence in the Unified Federal Budget, where the accumulated Trust Fund balance is effectively utilized to screen the true budget deficit. It is AASHTO policy that the Highway Trust Fund should be removed from the Unified Federal Budget, so that it can function as intended and not be utilized for "smoke and mirrors" Federal budget bookkeeping.

We believe that it is inappropriate to subject this dedicated Trust Fund to the annual Congressional budget resolution processes of the Unified Federal Budget. Since the user fees included in the Trust Fund are collected in advance of expenditures, these expenditures cannot in fact contribute to the Federal deficit. When the user tax collections and the interest earned on unspent balances exceed the rates of expenditure arbitrarily set by obligation ceilings and the budget process, America's transportation system is being ill served.

Every American can personally observe the impact of inadequate highways on his or her everyday life. When unrelieved traffic congestion requires a doubling or more of commutation time, this is time lost to other activities.

For working men and women who must drive from location to location, such as salespersons, time spent waiting in traffic is lost productive time.

Increasingly, State transportation and economic development officials are relating instances where industrial companies have made locational decisions on the basis of traffic congestion, a situation that will increase now that the just-in-time production philosophy is being adopted by many companies wherein supplies are delivered to a factory just before they are required on the production line. Many governments can also relate instances where industrial enterprises were lost to them, because they could not assure provision of adequate highways; these instances result in lost tax revenues.

It is also evident that poor highways contributed to accidents that kill or injure people. When injuries occur time is often lost from the job, again affecting productivity. The resulting grief and pain, aside from all our concerns about its human aspects, affect productivity.

Clearly, the overall interests of our nation require that we use, not simply accumulate, the balances in the Highway Account and the Mass Transit Account of the Highway Trust Fund.

Summary

We commend the Committee for conducting this hearing. We clearly must put "Trust" back into the Highway Trust Fund. We must end the arbitrary restraints placed on spending from the Trust Fund by obligation ceilings, restraints which are very disruptive to the orderly planning of transportation projects, which cause waste and inefficiency, and which damage the image of government when the word "Trust" is violated in the administration of these funds collected from transportation users.

In addition, we need to increase the overall level of Federal support for highways and public transportation. The States have been providing substantially increased funding over the past decade, and we believe our Federal partners should do the same.

I will be pleased to respond to questions the Committee may have.

# # #

American Petroleum Institute
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202-682-8100

Charles J. DiBona
President

May 18, 1990

The Honorable Daniel P. Moynihan, Chairman
Water Resources, Transportation and Infrastructure Subcommittee
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

The American Petroleum Institute is submitting for the record the attached statement on the revenue implications of S.1630 for the Highway Trust Fund -- specifically the bill's provisions requiring the use of a specified reformulated gasoline.

Due to the high minimum oxygen content required for this fuel, the use of large amounts of ethanol as a blending agent would be effectively mandated. The fuel ethanol market -- now 800 million gallons a year -- would at least double and could more than quadruple. Since every gallon of ethanol-blended fuel is exempted from 6 cents of the federal gasoline excise tax, the Highway Trust Fund would incur severe revenue losses.

The annual loss would be at least $530 million and could exceed $2 billion. This is in addition to $480 million already lost annually to the fund from sale of ethanol-blended gasoline. Also, state tax revenues would be decreased further because of state fuel tax exemptions.

At a time when infrastructure deterioration is an obvious and pressing problem, such additional losses in revenues would be particularly unfortunate -- especially since the particular formula mandated for gasoline could make it more difficult to achieve our air quality goals.

Reformulated gasoline can contribute to better air quality. But a formula for such a gasoline should not be set, especially one promising such deleterious effects on our highways and transit systems. Instead, Congress should set a mandatory pollution reduction goal and let industry scientists make the most cost-effective fuel that would achieve that goal.

Thank you for the opportunity to submit our statement.

Sincerely,

Charles J. DiBona

Charles J. DiBona

Statement of the

American Petroleum Institute

Before the

Water Resources, Transportation and Infrastructure Subcommittee

Environment and Public Works Committee

U.S. Senate

Washington, D.C.

May 16, 1990

Introduction and Summary

The American Petroleum Institute (API) appreciates the opportunity to submit a statement on the revenue implications for the Highway Trust Fund of *S.1630*.

S.1630 would substantially reduce Highway Trust Fund revenues by requiring high oxygen levels in fuels, which would increase ethanol blended fuel use. Revenue for the Highway Trust Fund comes from the gasoline excise tax, which is reduced 6 cents per gallon of ethanol blended fuel sold. Our calculations show that Highway Trust Fund receipts would be reduced at least $530 million annually to meet the wintertime 3.1 percent oxygen requirement in *S.1630* for CO nonattainment areas. Up to $2,030 million annually could be lost to the Highway Trust Fund to meet both the 3.1 percent requirement and the 2.7 percent oxygen requirement in ozone nonattainment areas. These reductions are on top of the current loss in Highway Trust Fund receipts of $480 million associated with the annual sale of about 8 billion gallons of the 10 percent ethanol blend known as "gasohol." At a time of pressing transportation infrastructure needs, this revenue loss would be particularly unfortunate.

API represents more than 200 companies involved in all aspects of the oil and gas industry. API's members have been active in the research and development of alternative fuels and reformulated gasoline. As major manufacturers and marketers of motor fuels, API's members have a vital interest in legislation concerning automotive fuels and the nation's highway system.

The petroleum industry shares the Administration's and Congress' goal of cleaner air. We support legislative proposals to set performance standards for vehicles and fuels that would improve air quality. But we are concerned about the sections of the Clean Air bills that would mandate fuel composition, and in particular set a high minimum oxygen level for reformulated gasoline. These sections not only would drain much needed revenues from the Highway Trust Fund, but also would mandate a formula for reformulated gasoline that could make it more difficult to meet air quality goals.

Reduction in Highway Trust Fund Receipts

Since 1979, the federal government and many state governments have provided gasoline excise tax exemptions to encourage use of ethanol fuels. Ten percent ethanol blends are exempt from 6 cents of the 9.1-cents federal gasoline excise tax until October 1, 1993. This is equivalent to a subsidy of 60 cents per gallon of ethanol. In addition, 28 states have tax exemptions or direct production subsidies that amount to a weighted average subsidy of 3 cents per gallon of blended fuel, which adds a further subsidy worth 30 cents per gallon of ethanol. With these subsidies, blenders are able to purchase ethanol from producers, mix it with gasoline, and sell the blend to retailers at a price that is competitive with conventional gasoline.

In 1988, the sale of about 8 billion gallons of ethanol blends reduced federal gasoline excise tax revenues by about $480 million. Because these revenues are dedicated to the Highway Trust Fund, the tax reduction for ethanol results in a dollar-for-dollar reduction in monies paid into the Highway Trust Fund. In addition, the cost to states with their own direct subsidies or state fuel tax exemptions amount to approximately $240 million per year. Increased use of ethanol blended fuel to meet the high minimum oxygen requirements in the pending Clean Air Act Amendments will increase this revenue drain to federal and state governments.

The Senate reformulated fuel requirements apply to 9 severe or extreme ozone nonattainment areas. These areas use about 24 billion gallons of gasoline annually. In addition, requirements for CO nonattainment areas will affect the composition of about 10 billion additional gallons. (There is some overlap of ozone and CO nonattainment areas.) Actual marketed quantities of reformulated fuel, in fact, would be larger, since fuel marketing areas do not coincide precisely with nonattainment areas. In addition, since any moderate or serious ozone nonattainment area can "opt-in," the reformulated fuel requirement could eventually be much larger.

It is difficult to predict how legislated gasoline reformulation would affect the relative market shares for specific oxygenates -- ethanol and methyl or ethyl tertiary butyl ether (MTBE or ETBE). However, one fact is unequivocal. The only blend in commerce today that has enough oxygen to legally achieve a 3.1 oxygen level (without a change in waivers for the ethers) would consist of gasoline and at least 8.9 percent ethanol.

To gauge the future use of ethanol blended fuels, three scenarios are estimated. The cases are not equally likely outcomes. Case A defines the minimum ethanol use, Case C the maximum, and Case B, an example of an intermediate possibility. [1]

Table 1 reports the increased ethanol demand for these three scenarios. As a point of reference, about 800 million gallons of ethanol are blended in motor fuels today. As the table shows, the fuel ethanol market would double at a minimum, and could

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[1] Case A represents the minimal ethanol requirements assuming no change in fuel blending waivers. Specifically, the 2.7 percent oxygen requirements in ozone nonattainment areas would be met entirely with ether blends -- that is, no additional ethanol would be demanded. In addition, full use of the "averaging" provisions in the Senate bill is assumed to meet the 3.1 percent oxygen requirement in ozone nonattainment areas. A 3.1 percent average results if half the fuel were a 2.7 percent ether blend and half a 3.5 percent ethanol blend. In effect, averaging could reduce the call on ethanol by up to one-half.

Case B assumes averaging is not economically advantageous, so that the 3.1 percent oxygen requirement in CO nonattainment areas is met entirely by a 10 percent ethanol blend. The 2.7 percent oxygen requirement continues to be met by ethers in this case.

Case C shows the maximum possible increased demand for ethanol (ignoring areas that choose to "opt-in"). Like Case B, averaging is not used and the 3.1 percent oxygen requirement in CO nonattainment areas is met entirely by the 10 percent ethanol blend. In contrast to the preceding cases, a 10 percent ethanol blend also is used to meet the 2.7 percent oxygen requirement in ozone nonattainment areas.

Table 1: Ethanol Requirements and Reduction of Highway Trust Fund Receipts under *S.1630*

Assumptions [a]	Increased Ethanol Demand [b] (million gal./yr.)	Added Loss in Highway Trust Fund Receipts (million $/yr.)
Case A	880	530
Case B	1,760	1,060
Case C	3,390	2,030

Notes:

a. Case A assumes "averaging" is used to meet 3.1 percent oxygen requirement in specified CO nonattainment areas, while the 2.7 percent oxygen requirement in ozone nonattainment areas is met by increased ether demand. Case B assumes no averaging to meet the 3.1 percent oxygen requirement while the 2.7 percent oxygen requirement is met by increased ether demand. Case C assumes no averaging to meet 3.1 percent oxygen requirement while the 2.7 percent oxygen requirement is met entirely by increased ethanol demand.

b. Does not include ethanol used to produce ETBE. Given recent Treasury rulemaking, there would be a loss in tax revenue, but no loss in Highway Trust Fund receipts, if more ethanol is demanded to manufacture ETBE.

more than quadruple as a result of oxygen requirements in *S.1630*. The uncertainty is large, but in all cases the revenue losses to the Highway Trust Fund are very substantial.

At a minimum, the Highway Trust Fund would lose $530 million per year under *S.1630* (Case A); and, the loss could be as high as $2.0 billion (Case C). These revenue reductions are on top of the current revenue loss of about $480 million. The impact on the nation's transportation infrastructure (maintaining roads, bridges, etc.)

would be larger, since increased fuel ethanol demand also would reduce state tax revenues.

At a time when infrastructure deterioration is an obvious and pressing problem, such additional revenue losses would be particularly unfortunate -- especially since the reformulated gasoline recipe in *S.1630* could make it more difficult to achieve our air quality goals.

Oxygen Fuel Requirements and Air Quality Effects

EPA estimates that between 1978 and 1987, carbon monoxide (CO) emissions declined by 32 percent. The CO problem continues to diminish as newer cars with advanced emission controls replace older, higher polluting cars. EPA projections indicate that the number of CO nonattainment areas and the degree of nonattainment in those areas will continue to decline. Thus, many of today's CO nonattainment areas will reach attainment in the next few years without use of oxygenated fuels.

Increasing the amount of oxygen in gasoline helps to reduce exhaust CO emissions. However, CO emission reductions depend on a vehicle's emissions controls as well as the oxygen content of fuel. Oxygenated fuel provides the highest CO reductions in older vehicles, but little benefit in new vehicles. Further, CO reductions are not proportional to the amount of oxygen in the blend. Most of the CO reductions possible can be achieved with a 2.0 percent oxygen content. Nevertheless, *S.1630* requires 3.1 percent oxygen in fuel in CO nonattainment areas.

API believes that the design and implementation of any oxygenated blend program is best left to individual CO nonattainment areas. In this fashion, the local authorities can consider the severity of their problem, climate and geography, sources of CO emissions, and alternative solutions; and they can design the most cost-effective program suited to their local needs. A federally imposed program is inappropriate because it would restrict the flexibility of state and local governments to design the most cost-effective programs for their respective areas.

In contrast to CO, ozone nonattainment is a more persistent problem. Since EPA estimates that mobile sources contribute between 30 and 50 percent of precursor emissions (volatile organic compounds and nitrogen oxides), it is appropriate to consider how to get further emissions reductions.

While we believe that reformulated fuels can provide reductions in CO and ozone precursor emissions, government specification of fuel composition is not appropriate. The fuel specification approach in *S.1630* particularly the high minimum oxygen level, could make it more difficult to meet environmental goals. Increasing the oxygen content of fuel increases nitrogen oxide and aldehyde emissions -- both important ozone precursors. EPA estimates that ethanol blends increase NO_x by 4 to 8 percent. And, while ethanol blends reduce exhaust CO emissions, it increases the vapor pressure of blends, increasing evaporative volatile organic compound emissions. EPA data show that ethanol blends increase total evaporative and exhaust VOC emissions by 13 percent.

Conclusions

S.1630 is clearly tilted to provide a significant niche for increased use of ethanol as a blending agent, even though ethanol's real cost to society is much higher than other blending agents. Simply stated, without tax subsidies, ethanol is not price competitive with other blending agents.

Reformulated gasoline will contribute to better air quality over the coming years. But

a formula for gasoline should not be set. The specifications for reformulated gasoline in *S.1630* will, in fact, make it more difficult to meet our environmental goals. Congress should set mandatory pollution reduction goals and let the auto/oil research and industry scientists make the fuels that would achieve these goals.

Further, the high oxygen requirement in *S.1630* would at least double the current drain on the Trust Fund and could raise it to over $2.0 billion per year. At a time when infrastructure deterioration is an obvious problem, the loss in revenues to the Highway Trust Fund is particularly distressing.

Thank you for this opportunity to comment on these important issues.

NAPA

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JOHN GRAY
President

May 31, 1990

The Honorable Daniel P. Moynihan, Chairman
Subcommittee on Water Resources, Transportation
and Infrastructure
Committee on Environment and Public Works
458 Dirksen Senate Office Building
Washington, DC 20510-6175

Dear Mr. Chairman:

The National Asphalt Pavement Association (NAPA) requests that this statement be included in the record of the May 9, 1990 hearing on the Highway Trust Fund and Federal-Aid Program Funding. We commend the Subcommittee for holding this hearing and appreciate the opportunity to present our views.

NAPA is a national trade association exclusively representing the Hot Mix Asphalt (HMA) Industry. We have a membership of approximately 700 corporations, most of which are Hot Mix Asphalt producers and paving contractors. More than three-fourths of the NAPA member firms qualify as small business firms under the definitions of the Small Business Administration. Our member firms produce approximately 75 percent of the total HMA produced in the United States annually (490 million tons in 1989).

Our stated legislative policy on the Federal-Aid Highway Program is to support legislation which provides for full expenditure of highway user fees for the Federal-Aid Highway Program to the maximum extent the law allows, removes the Highway Trust Fund (HTF) from the unified budget and its Gramm-Rudman-Hollings limitations, repeals tax exemptions for special fuels, and permits no further diversion of highway user fees for non-highway purposes.

Highway needs are well documented and have been presented to this Subcommittee on several occasions and do not need repeating. There is also general agreement that we, as a nation, have been underinvesting in our nation's highways, which are the part of our infrastructure most vital to the continued economic prosperity of our country.

For the past several years, the level of expenditures for the Highway Program recommended by the Administration has been set at the estimated level of income from the user fees only, excluding interest. Congress has generally raised these levels, but the Highway Account of the Trust Fund could support a much larger annual highway program than has been approved in the past and is currently being recommended. The following discussion on the Trust Fund, the Highway Program and impacts on the deficit supports this position.

The Highway Trust Fund (HTF)

The HTF was established in 1956 as a pay-as-you-go fund to finance the Federal-Aid Highway program. It is a reimbursable program.

HOT MIX ASPHALT
On the Road to the Future

On October 1st of each year, the beginning of the federal fiscal year, the Federal Highway Administration (FHWA) distributes funds to the states for the federal share of highway projects, according to formulas set by Congress. Actually, no cash is distributed, but the states are given the authority to let Federal-Aid highway projects to contract (obligate the funds) up to the amount distributed to each state. As states incur costs, they bill the federal government for its share. In other words, as states make progress payments to the contractors, the U.S. Treasury makes progress payments to the states out of the Trust Fund.

Receipts to the HTF are from highway user fees (excise taxes). The federal tax on gasoline accounts for most of the income (60% in '89), followed by the diesel fuel tax (27%), tax on trucks and trailers (7%), the Heavy Vehicle use tax (4%), and the tax on tires (2%). The 1956 Federal-Aid Highway Act, which established the HTF, required that the interest earned by investing the proceeds also be credited to the Trust Fund as income.

Since 1982, the HTF has been made up of two components, the Highway Account and the Transit Account. One cent per gallon of the federal motor fuel tax (nine cents per gallon for gasoline, fifteen cents for diesel) goes into the Transit Account. This one cent per gallon produces about $1.1 billion per year in revenue. On September 30, 1989, the end of FY '89, the total balance in the HTF was approximately $16.7 billion: $10.6 billion in the Highway Account and $6.1 billion in the Transit Account.

The HTF is not permanent. Each time a Highway Act is passed by Congress, the user fees (taxes) and the HTF must be extended, usually for two years beyond the last year funded by the Highway Act. The 1987 Act provides Federal-Aid funds for FY '87 thru FY '91 (5 years). In that Act, the user fees and the HTF were extended to September 30, 1993, the end of FY '93. The reason for the additional two years is to assure that there will be revenues available to pay the states for any obligations incurred throughout the five fiscal years covered by the '87 Act.

The Elusive Balance - How Much is Enough

A quick answer is: a lot less than the current balance. Before FHWA distributes federal funds to states on October 1st of each year, they mus make a determination that the cash balance in the Highway Account, plus estimated income for the next two years, will be adequate to pay the costs incurred. These costs are those that will be billed by the states for projects approved in prior years, as well as those approved in the current fiscal year.

At any given time, the federal government has incurred obligations to pay bills out of the Highway Account that exceed the cash balance. At the end of FY '89, there were projects underway with potential bills totaling $21.6 billion that had not been billed to the Highway Account. As the states make contractor progress payments, they will submit the bills and be paid. That is the beauty of the HTF concept.

The Highway Account could be gradually spent down to a $2 billion balance without violating the current statutory guidelines. This would support a Highway Program of $18-$19 billion per year for the next five years ('92-'96). Obviously in '97 a revenue increase would be required or a greatly reduced Highway Program would have to be instituted.

The Deficit and Gramm-Rudman-Hollings(GRH)

The federal deficit is computed on a cash in/cash out basis for any given fiscal year. Balances from prior years do not figure in the deficit for the current fiscal year. If the budget for the U.S. Government, as approved by Congress, shows a deficit which exceeds the target deficit established by GRH for that fiscal year, then sequestration occurs. The expenditures must be reduced or income increased by an amount which will bring the deficit for that fiscal year within the GRH target.

Trust Funds and the Deficit

Balances in the trust funds for prior years by themselves do not affect the deficit as it is computed on income and outlays (cash in/cash out) for any particular fiscal year. If income exceeds outlays in the trust funds for that particular year, the deficit is reduced by the amount of income over outlays. Conversely, when outlays from a trust fund exceed income, the deficit is increased by that amount.

There has been much discussion about the balance in the Social Security Trust Fund and its impact on the deficit. When you hear about a $60 billion surplus in the Social Security Trust Fund in FY '90, it means that there is $60 billion in income over outlays for FY '90 in that trust fund. Therefore, for FY '90 that $60 billion is used to reduce the deficit. If the Social Security Trust Fund income were taken "off budget," the deficit would be $60 billion greater than it is with the Social Security Trust Fund income "on budget." The Social Security Trust Fund income is figured in the unified budget. It is not subject to sequestration. The Highway Trust Fund is likewise figured in the unified budget but is subject to sequestration.

The income to the Highway Account in FY 1989 was $14.36 billion from excise taxes and $.78 billion from interest, for a total of $15.14 billion. Expenditures (outlays) in FY '89 were $13.60 billion. The interest is paid from the General Fund, so some argue that while it is income to the Highway Account it is an outlay from the General Fund and cancels out for GRH deficit computation purposes. Therefore, under that theory, in FY '89 the General Fund deficit was reduced by an excess of revenue over expenditure of $.76 billion. For FY '90, income from excise taxes into the Highway Account is estimated to be $13.44 billion; outlays are estimated at $13.97 billion. The deficit is increased by $.53 billion because of outlays from the Highway Account in FY '90.

The real balance in the Highway Account at the end of FY '89 was approximately $10.6 billion. To spend down the balance obviously means that we would spend, in any given fiscal year, more than the income to the Trust Fund. That balance can be spent down if approved by Congress. If the Highway Trust Fund were taken "off budget" and exempt from the GRH deficit computation, it would remove another obstacle to increasing highway spending, as it would not impact the officially calculated deficit in any way.

If all of the above seems complicated, it merely illustrates that government bookkeeping is "voodoo" accounting. It also illustrates that in the overall budget scheme, the Highway Trust Fund has a very minor impact when one considers the critical needs of the nation's highway transportation system.

Obligations vs. Outlays - The Impact of GRH

Because of the multi-year duration of most highway projects and the fact that the Highway Program is a reimbursable program, there are no outlays of federal funds until the states actually incur costs and submit bills. On the average, 17% of the funds obligated (projects put under contract) in any given year will be paid out in that year. Roughly 52% is paid out the second year, 15% in the third, and 5% in the fourth with the rest spread over the next several years. For each $1 billion obligated in the Highway Program in a given year, outlays for that year are approximately $.17 billion. GRH applies to the budget for the current year. To achieve outlay reductions in the Highway Program in the current year would therefore require reducing obligations for the current year by roughly six times the targeted reduction. A $6 billion dollar reduction in obligations achieves a $1 billion savings in outlays for the current year. It seems obvious that very little can be done in the Highway Program to have a material impact on the deficit in any given year without devastating consequences to the states and the highway industry.

Highways and the Economy

There are several deficits that should be of concern to the nation. Three of the more critical are:

1. Budget Deficit
2. Trade Deficit
3. Public Capital Investment Deficit

These deficits are interrelated and interdependent. Economic growth is probably the best long-term solution to the Budget Deficit. Economic growth depends upon improving our competitive position in the world economy. This requires marked improvement in our productivity. Without this, we cannot improve the Trade Deficit.

There is no simple path to improved productivity, but increased public investment in our transportation infrastructure seems a necessity under any scenario. Transportation, particularly highway transportation, is fundamental to all economic activity. Private investment will not achieve its full potential without timely, productive public investment in the transportation system. There is evidence to indicate that sustained increased public investment in the highway system will stimulate national productivity growth. To go the other way and reduce this investment for any reason, let alone short-term gratification on the Budget Deficit, will have long-term negative consequences on the other deficits.

Conclusion

The increased spending levels proposed by S.2013 are a positive step forward. Senator Symms' proposal goes even further in that it would remove the transportation trust funds from the federal deficit calculations. Both of these proposals would draw down the trust fund balances and allow the full use of available funds. NAPA strongly supports these efforts. We recognize that the current pressures to reduce the Budget Deficit make the decisions to increase highway spending difficult. However, when viewed in the context of the total impact of further underinvestment in the economy of the country, the right course of action is obvious.

We appreciate the opportunity to present our views for the record of this hearing.

Very truly yours,

R D Morgan

R. D. Morgan
Vice President

RDM:kk

II

101st CONGRESS
2d Session

S. 2013

To require that the surplus in the Highway Trust Fund be expended for the Federal-Aid Highway System.

IN THE SENATE OF THE UNITED STATES

January 23, 1990

Mr. Bryan (for himself, Mr. Reid, and Mr. Daschle) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To require that the surplus in the Highway Trust Fund be expended for the Federal-Aid Highway System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed to expend out of the Highway Trust Fund for programs and projects authorized under title 23, United States Code, or under any other provision of law, for Federal-aid highways—

(1) in addition to amounts otherwise authorized to be expended—

(A) $3,000,000,000 for the fiscal year in which this Act is enacted, and

(B) $3,000,000,000 for each of the 2 succeeding fiscal years, and

(2) for the third fiscal year beginning after the fiscal year in which this Act is enacted, and for each succeeding fiscal year, such sums as are deposited into the Highway Trust Fund during that fiscal year.

SEC. 2. (a) Section 105 of the Federal-Aid Highway Act of 1987 (13 U.S.C. 104, note) is hereby repealed.

(b) Any limitation imposed on the total amount of obligations for Federal-aid highways and highway safety construction programs for any fiscal year that is contained in any law enacted prior to the enactment of this Act shall have no force or effect after the date of enactment of this Act.

○